

Fiscal Estimate - 2019 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 19-1198/1	Introduction Number SB-009	
Description penalties for offenses related to operating a vehicle while intoxicated and providing a penalty		
Fiscal Effect		
State: <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations </div> <div style="width: 30%;"> <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues </div> <div style="width: 30%;"> <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <div style="display: flex; justify-content: space-around; font-size: small;"> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </div> <input type="checkbox"/> Decrease Costs </div> </div>		
Local: <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <p>1. <input checked="" type="checkbox"/> Increase Costs</p> <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory </div> <div style="width: 30%;"> <p>3. <input type="checkbox"/> Increase Revenue</p> <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 30%;"> <p>5. Types of Local Government Units Affected</p> <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 </div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <p>2. <input type="checkbox"/> Decrease Costs</p> <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 30%;"> <p>4. <input type="checkbox"/> Decrease Revenue</p> <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> </div>		
Fund Sources Affected Affected Ch. 20 Appropriations <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		
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Fiscal Estimate Narratives

SPD 2/22/2019

LRB Number	19-1198/1	Introduction Number	SB-009	Estimate Type	Original
Description penalties for offenses related to operating a vehicle 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 and certain commitment proceedings. The SPD plays a critical 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.

Under this bill, a person who commits a first OWI-related offense is guilty of a Class C misdemeanor and may be fined up to \$500, imprisoned for up to 30 days, or both. Under the bill, a person who commits a second OWI-related offense is subject to the increased penalties regardless of whether the person commits the offense within ten years of his or her first OWI-related offense. Under the bill, a court may, upon petition by the person who has been convicted of a first OWI-related offense, vacate the person's criminal conviction and amend the record to a civil violation if, in the five years since the person was convicted of the offense, he or she has not committed any other OWI-related offense. Under the bill, the clerk of courts amends the court records that are available in person and online to show only the civil violation.

The Department of Transportation (DOT) reported 14,313 convictions for first offense OWIs committed in fiscal year 2017. Assuming a 95% conviction rate, as most prosecutions would be successfully supported by blood alcohol evidence, and also assuming that 40% of the defendants would meet the SPD's financial eligibility criteria, the SPD could appoint counsel in as many as 6,027 new misdemeanor cases. The SPD's average cost to provide representation with a private bar attorney in a misdemeanor traffic case in fiscal year 2018 was \$227.78. It is estimated that the increase in cases could result in an additional annual cost of \$1,372,700.

Removing the current OWI look-back provision for second offense is likely to increase the number of cases in which the SPD provides representation. We are unable, however, to quantify the number of cases that might occur due to this provision in the bill and how many people would meet the eligibility requirements for SPD services.

Because probation or prison could be ordered upon conviction for the proposed crime, this change could indirectly lead to additional cases in which the Department of Corrections (DOC) would seek to revoke probation or extended supervision. The SPD provides representation in proceedings commenced by the Department of Corrections (DOC) to revoke supervision. Thus, the bill could indirectly increase the number of cases in which the SPD appoints attorneys in revocation proceedings. The average cost during fiscal year 2018 for SPD representation by a private bar attorney in a revocation proceeding was \$294.73.

Because of the annual caseloads for staff attorney positions specified for budgeting purposes under § 977.08(5), Stats., it would be more cost effective to add staff attorney positions if a significant number of SPD cases resulted from this provisions of the bill.

This bill could also have a fiscal impact on counties. 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. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications