

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **SB 215** SLS 10RS 416
 Bill Text Version: **REENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: June 15, 2010 7:53 AM	Author: MOUNT
Dept./Agy.: Corrections	Analyst: Matthew LaBruyere
Subject: DWI	

DWI RE INCREASE GF EX See Note Page 1 of 2
 Amends the penalty provisions for a third and fourth offense DWI. (gov sig)

Proposed legislation maintains present law for third offense DWI and enhances imprisonment sentence from 45 days to 1 year without benefit of probation, parole, or suspension of sentence. Proposed legislation maintains present law for fourth or subsequent offense DWI and enhances imprisonment sentence from 75 days to 2 years without benefit of probation, parole, or suspended sentence. Proposed legislation provides for suspension of a third conviction of operating a vehicle while intoxicated for which a defendant could have his sentence suspended, when it appears that the best interest of the public and the defendant will be served, and with the consent of the district attorney, the court may suspend in whole or in part the imposition or execution of the sentence; and require that an offender to enter and complete an established DWI court program pursuant to the trial court and the district attorney, or if the defendant is sent by the trial court for a minimum of year year to a facility which conforms to the Judicial Referral Residential Facility Regulatory Act (R.S. 40:2852); and provides the same sentencing alternatives to 4th offense convictions if no alternatives were offered prior to the 4th offense.

EXPENDITURES	2010-11	2011-12	2012-13	2013-14	2014-15	5 -YEAR TOTAL
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

REVENUES	2010-11	2011-12	2012-13	2013-14	2014-15	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

The proposed legislation may result in an increase in state general fund expenditures. The exact fiscal impact of the passage of this legislation is indeterminable since it increases the penalty for 3rd and 4th DWI offenses and it is not known how many people will be convicted of this crime. However, any offender sentenced to the custody of the Department of Public Safety and Corrections increases expenditures by \$24.39 per day per offender in local facilities.

To the extent a person convicted of a 3rd DWI offense remains incarcerated for an additional 320 days (365 days in a year - 45 day minimum mandatory), state general fund expenditures increase \$6,986 (320 days x (\$24.39 per day in a state facility - \$2.56 per day parole/probation supervision)) per year. For a person convicted of a 4th or subsequent DWI offense, he would remain incarcerated an additional 655 days (730 days in 2 years - 75 day minimum mandatory) and increase state general fund expenditures by a total of \$14,299 (655 days x \$21.83 net per day in a local facility) over 2 years. For a 4th DWI offender the increased incarceration in year 1 of the sentence would be 290 days (365 days in a year - 75 day minimum mandatory).

According to the Department of Corrections, in 2009 there were 292 3rd DWI offense offenders released who served less than 1 year and 97 offenders convicted for a 4th or subsequent DWI offense released who served 2 years or less. Of the 292 3rd DWI offense offenders, 121 served at least 37 days. To the extent the length of incarceration remains constant, the cost to incarcerate these offenders for an additional 328 days, which would increase the incarcerated time to 1 year, would be \$866,389 (121 offenders x \$21.83 per day x 328 days). Of the 97 4th or subsequent DWI offense offenders, 21 served at least 75 days. To the extent the length of incarceration remains constant, the cost to incarcerate offenders for an additional 290 days in year one and 365 days in year two would be \$132,945 (21 offenders x \$21.83 per day x 290 days) in year 1 and \$167,327 (21 offenders x \$21.83 per day x 365 days) for year 2 for a total of \$300,182 (\$132,945 in year 1 and \$167,327 in year 2).

In lieu of being incarcerated, offenders (3rd and 4th offense) can also be sent to DWI court, drug court, or a judicial referral residential facility. All 3 options have a different fiscal impact on state expenditures. **(CONTINUED ON PAGE 2)**

REVENUE EXPLANATION

Offenders that are sent to drug court, DWI court, or judicial referral residential facilities will be placed on probation which will be not less than 2 years nor more than 5 years. Each person that is placed on probation will pay a monthly probation fee of \$50. For each offender than is under the supervision of Probation and Parole, self-generated will increase \$600 (\$50 per month per offender x 12 months).

Senate Dual Referral Rules

13.5.1 >= \$100,000 Annual Fiscal Cost

13.5.2 >= \$500,000 Annual Tax or Fee Change

House

6.8(F) >= \$100,000 Annual SGF Cost

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease

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LFO Staff Director

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CONTINUED EXPLANATION from page one:

(EXPENDITURE EXPLANATION CONTINUED FROM PAGE 1)

There are currently 6 DWI courts operating in the state with 330 available slots for offenders. The DWI courts are currently funded by National Highway Traffic Safety Administration and local agency matching funds for a total of \$1,176,240 with \$814,480 in grant monies and \$361,760 in local agency match. The average cost per person per year is \$3,564 (\$1,176,240 / 330 available slots).

There are 49 Drug Courts operating in the state that 3rd or 4th DWI offense offenders are currently eligible to enter. The courts served approximately 3,300 participants per month in 2009. For FY 09, \$14,851,145 was allocated to fund drug courts around the state, with \$5 million in funding from the TANF program in an agreement from DSS and the remaining \$9.8 million from state general fund. The annual average cost for each adult participant is \$4,800.

Judicial referral residential facilities do not receive state or local funds and charge the offender \$43 per day. The residential facility operates as a work-release facility, in that offenders are placed in jobs as they arrive in the facility. According to information received by the LFO, there are 2 facilities that can house 268 offenders, which are not sex offenders or nonviolent offenders. For each 3rd or 4th offense DWI offender that is sent to the residential facility instead of drug court or incarceration that state will save \$8,902 per year in incarceration costs or \$4,800 per year in drug court costs. To the extent admission rates remain constant, if there are 71 offenders admitted, who serve a year or less, in FY 11 and half are sent to residential facilities, the potential savings in state general fund could be \$311,570 (35 offenders x \$8,902 incarceration costs per year) by not having offenders in the custody of the Department of Corrections.

The proposed legislation will increase state general fund expenditures if an offender is incarcerated or sent to drug court since both receive funding from the state general fund. To the extent an offender is sent to DWI court, federal and local funds will be expended. It should be noted that there is very limited availability in DWI courts since there are only 6 courts operating throughout the state. It is unknown if additional DWI courts would receive the same amount of federal funds as those currently operating and local funding would vary by jurisdiction. To the extent an offender is sent to residential facilities, no local, state, or federal funds will be expended, and a savings will occur for each offender sentenced to a residential facility.

It should be noted that the figures of 121 3rd offense DWI offenders that served at least 37 days and 21 4th offense DWI offenders that served at least 75 days are a portion of the total number of offenders incarcerated. As mentioned above, 292 3rd offense DWI offenders serve less than 1 year and 97 4th offender DWI offenders serve less than 2 years. Each additional day that all 389 offenders (292 3rd offense offenders and 97 4th offense offenders) the increase in expenditures is \$8,492 (389 offenders x \$21.89 per day). To the extent 389 offenders spend an additional month incarcerated, the increase in expenditures is \$254,756 (389 offenders x \$21.89 per day x 30 days).

While the average time served for 3rd offense DWI offenders is 1.04 years for offenders released in 2009, it should be noted that of the 509 3rd offense DWI offenders released, 292 (57%) offenders served less than a year, 126 offenders (25%) served between 1 year and less than 2 years, and 91 (18%) offenders served between 2 and 18 years.

The average times served for 4th offender DWI is 2.33 years for persons released in 2009. However, of the 198 4th offense DWI offenders released, 54 (27%) offenders served less than a year, 43 (22%) offenders served between 1 year and less than 2 years, 33 (17%) offenders served between 2 years and less than 3 years, and 68 (34%) offenders served between 3 and 18 years.

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