

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **SB 687** SLS 12RS 914

Bill Text Version: **ENGROSSED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: May 23, 2012 1:19 PM	Author: PERRY
Dept./Agy.: DHH/Office of Behavioral Health	Analyst: Jennifer Katzman
Subject: Sentencing, fines, and treatment for DWI offenders	

DWI EG INCREASE GF EX See Note Page 1 of 2
Provides relative to the sentencing guidelines for first and subsequent offense DWI.

Proposed legislation increases the minimum imprisonment sentences for 1st, 2nd, and 3rd Drinking While Intoxicated (DWI) offenses without benefit of parole, probation, or suspension, and increases the fines for 1st and 2nd DWI offenses.

Proposed law also requires a substance use evaluation and participation in a treatment program for first offense DWI convictions at the discretion of the court, and for all second offense DWI convictions. Proposed legislation further provides procedures and conditions of such evaluation and treatment including that all costs are to be borne by the offender, unless the offender is indigent. Proposed legislation retains present law under R.S. 14:98 regarding evaluation and treatment for third, fourth, and subsequent DWI offenders, but adds the requirement that the offender bear all costs unless declared indigent.

EXPENDITURES	2012-13	2013-14	2014-15	2015-16	2016-17	5 -YEAR TOTAL
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Local Funds	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Annual Total						

REVENUES	2012-13	2013-14	2014-15	2015-16	2016-17	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>	<u>\$0</u>
Annual Total						

EXPENDITURE EXPLANATION

The proposed legislation is anticipated to result in increased SGF, SGR, Federal, and local expenditures by an indeterminable amount due to increased minimum jail sentences and the requirement that the state provide substance use evaluations and treatments for indigent 1st and 2nd DWI offenders. The LFO assumes that an offender's indigent status will be determined by the court.

Local Law Enforcement

There is no anticipated direct material effect on state governmental expenditures as a result of this measure. The proposed legislation is a misdemeanor; therefore, these offenders are not sentenced to the Department of Public Safety and Corrections. Local law enforcement agencies may realize an indeterminable increase in expenditures associated with prison costs due to increased minimum imprisonment sentences without benefit of parole, probation, home incarceration, or suspension. The cost increase will depend on the number of DWI offenders convicted, the minimum sentence an offender serves under the proposed legislation, and the cost per day for a local law enforcement agency to incarcerate an offender.

Expenditure explanation continued on page 2

REVENUE EXPLANATION

With the proposed legislation, the offender will bear the responsibility for all costs associated with his evaluation and treatment if he is not declared indigent. Therefore, SGR revenues will increase by an indeterminable amount determined by the amount collected from the non-indigent offender according to each agency's fee schedule. Any SGR funds collected will be used to fund the costs associated with the offender's evaluation and treatment.

In addition, the proposed legislation imposes a \$500 - \$1,000 fine on 1st DWI convictions with a blood alcohol concentration (BAC) of between 0.15 and 0.20. In addition, a new \$2,000 fine is imposed on 1st offense DWIs when in conjunction with vehicular homicide or 1st degree vehicular negligent injuring. Increased revenues will depend on the number of offenders convicted of these additional crimes or with the BAC proposed by the legislation. Beginning in FY 13, based on the average number of 2nd DWI convictions reflected below, revenues are anticipated to increase by \$148,750-\$595,000 from increased fines imposed on 2nd offense DWIs in the proposed legislation (595 x [\$250 - \$1,000 increase] = \$148,750 - \$595,000).

	<u>FY 09</u>	<u>FY 10</u>	<u>FY 11</u>	<u>Average</u>
1st offense DWI convictions	4,348	5,438	6,500	5,429
2nd offense DWI convictions	487	577	722	595

NOTE: DWI data provided by the Office of Motor Vehicles

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>
<input checked="" type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}	<input type="checkbox"/> 6.8(F)1 >= \$500,000 Annual Fiscal Cost {S}	
<input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}	<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}	

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CONTINUED EXPLANATION from page one:

Office of Behavioral Health (OBH)

The exact number of 1st and 2nd offense DWIs currently referred to treatment and the number of indigent offenders is unknown; however, based on historical trends, the Office of Behavioral Health (OBH) currently treats an average of 13.6% of all 1st and 2nd DWI offenders (see chart below). Any other offenders court ordered to treatment are seen through the private sector.

	<u>FY 09</u>	<u>FY 10</u>	<u>FY 11</u>	<u>Average</u>
All 1st & 2nd DWI offenders	4,835	6,015	7,222	6,024
1st & 2nd offenders treated by OBH	656	874	929	820
Percentage treated by OBH	13.5%	14.5%	13%	13.6%

OBH expenditures for substance use treatment are funded primarily with SGF and Substance Abuse Prevention and Treatment (SAPT) Block Grant Federal funds. The typical treatment plan includes an assessment and 12 outpatient sessions, which costs an average of \$650 per patient. Based on the formula below, an estimated 5,070 1st and 2nd offense DWIs either receive treatment through the private sector or will be newly referred to treatment under the legislation's provisions. **820** (avg. 1st & 2nd DWIs treated by OBH/year) + **134** (1st & 2nd DWIs in DWI/Drug Courts per year*) = **954** (1st & 2nd DWIs currently in state treatment each year)

6,024 - 954 = 5,070 (1st & 2nd offense not treated or currently treated through private sector)

*Estimate provided by the Supreme Court and DWI Courts based on their historical data

For illustrative purposes, assuming that none of the 5,070 are treated in the private sector and that at least 50% are declared indigent, there will be an estimated \$1,647,750 increase in expenditures (SGF and Federal) beginning in FY 13 (5,070 x 50% x \$650). To the extent that any of the 5,070 are currently treated in the private sector, or the number of indigent patients varies, this estimate will decrease proportionally.

Under current law, OBH must already provide an evaluation and treatment for 3rd and subsequent DWI offenders. According to information provided by OBH, these offenders undergo a 30-day inpatient stay with 84 outpatient sessions over the following year. The average treatment cost for this subgroup is approximately \$7,260 per patient, funded by SGF and SAPT Federal funds. However, since costs for the non-indigent are to be borne by the offender, SGR expenditures may increase depending on what OBH is able to collect from the offenders participating in its programs.

DWI/Drug Courts

Information provided by the LA Highway Safety Commission and the Supreme Court indicates that there are currently 48 drug courts and 7 DWI courts in Louisiana that can provide evaluation and treatment programs to 3rd and subsequent DWI offenders. In addition, the DWI/Drug courts provide programs for some 1st and 2nd offense DWIs (134 on average per year). This legislation does not change the eligibility criteria for treatment through the DWI or drug courts; therefore, it does not increase the number of offenders receiving treatment in the DWI/Drug Courts. As such, it is not anticipated that the DWI or drug courts' SGF or Federal expenditures will increase as a result of this legislation. However, since the bill requires non-indigent offenders to bear the costs of any evaluation and treatment programs, any increased SGR collections could potentially offset SGF and Federal expenditures and result in an indeterminable amount of savings. Currently, the DWI courts are 100% Federally funded by the National Highway Traffic Safety Administration. According to the LA Highway Safety Commission, there are 40-50 clients per year in each DWI court, for which \$5,000 per client is budgeted for a 12 month treatment program. According to the Supreme Court, \$4,500 per adult and \$5,625 per adolescent/child is budgeted for treatment programs in the drug courts.

Senate

Dual Referral Rules

House

13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}

6.8(F)1 >= \$500,000 Annual Fiscal Cost {S}

13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}

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

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