

FISCAL NOTE
Requested by Legislative Council
04/01/2013

Amendment to: HB 1302

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$6,146,511		\$6,474,961
Expenditures			\$5,512,001	\$6,146,511	\$9,766,376	\$5,705,950
Appropriations			\$5,512,001	\$6,146,511	\$9,766,376	\$5,705,950

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties		\$1,960,000	\$1,960,000
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill provides for increased probation and incarceration requirements and increased usage of the 24/7 sobriety program.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill contains several sections that will fiscally impact local jurisdictions, the Office of the Attorney General, and the Department of Corrections and Rehabilitation. Impact will come through increased usage of the 24/7 sobriety program, and increased probation and incarceration requirements. As amended this bill should have no material fiscal impact to the Department of Transportation.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The increase revenues shown in Part 1A of this fiscal note result from an increased number of participants in the 24/7 sobriety program and an increased number of individuals on supervised probation.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

County fiscal impact determined by assuming one-half of the 4000 first-time DUI offenders per year would be incarcerated for 2 days and 2,000 second-time DUI offenders would be incarcerated for 10 days (increase of 5 days from current practice). Incarceration cost per day estimated at \$70. No material fiscal impact anticipated for 3rd time offenders. The DOCR impact was determined by estimating, 102 3rd offenses per year and 213 4th or more offenses per year. The DUI offenses would increase the average daily prison population by 88 in FY14, 195 in FY15, 195 in FY16 and 195 in FY17. This increase would cause DOCR facilities to reach capacity by FY15 resulting in a need to contract for additional bed space as follows: FY15 - 129, FY16 - 149 and FY17 - 169. Probation caseloads

would increase as follows: FY16 - 212, FY17 - 338. Costs estimated for the purpose of this fiscal note include medical, food, contract housing, and additional FTE's to provided community supervision (probation). See attached for computation. Office of Attorney General fiscal impact: There are approximately 6,400 resident DUI's per year. In addition, approximately 950 children (17 and under) will likely participate in the 24/7 Sobriety program. As a result of this bill, the office estimates about 35% of the participants will use SCRAM bracelets. The Office of Attorney General currently has 374 SCRAM bracelets. This bill could require an estimated 2,573 additional bracelets which results in a net increase of 2,199 new bracelets. Total 2013-15 biennium estimated expenditures are \$7,443,901 (\$6,146,511 from other funds - participant fees and \$1,297,390 from the general fund). Estimated expenditures for the 2015-17 biennium are \$5,540,677 which will be paid from participant fees (other funds).

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

DOCR - Total 2013-15 biennium estimated appropriation needed \$4,214,611 (100% general fund); 2015-17 biennium \$9,931,649 (\$9,766,376 general funds and \$165,273 other funds)and 6 FTE. Attorney General - Total 2013-15 biennium estimated appropriations needed are \$7,443,901 (\$6,146,511 from other funds - participant fees and a \$1,297,390 general fund appropriation). The Office of Attorney General estimates an appropriation of \$5,540,677 will be needed for the 2015-17 biennium from participant fees (other funds).

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Estimated impact to the DOCR. To arrive at an estimate the DOCR obtained DUI conviction data from the State's District Courts from the period January 1, 2007 thru December 31, 2012. Over that time period there was a total of 19,331 DUI related convictions for an average of 3,222 DUI related convictions per year. The following assumptions were used: 1) Offenses occur evenly through out the year. 2) Actual time incarcerated is equal to minimum mandatory sentence; 3) All time incarcerated for misdemeanor B and A (1st, 2nd, and 3rd offense) at the county level; 4) 2nd offense probation is unsupervised and will not impact DOCR supervision caseloads; 100% of 3rd, 4th and subsequent offense probation is supervised and will impact DOCR supervision caseloads; 5) All time incarcerated for felony C (4th and subsequent offense) incarcerated at state level; 6) Contract housing beds \$70 per day (no treatment services included in rate); 7) No deterrent effect was used in the estimate; 8) Estimated available drug court capacity (35) consumed by 2nd and 3rd offenses (no offset to 4th and subsequent incarceration); 9) Revised 2013-15 estimated inmate population used in determining fiscal effect; 10) All aspects of the 24/7 sobriety program administered by the Office of the Attorney General.

The DOCR impact was determined by estimating 102 3rd offenses per year and 213 4th or more offenses per year. These offenses would increase the prison population by 88 in FY14, 195 in FY15, 195 in FY16 and 195 in FY17. This would cause DOCR facilities to reach capacity in FY15 resulting in a need to contract for additional bed space as follows: FY15 - 129, FY16 - 149 and FY17 - 169. Probation caseloads would increase as follows: FY16 - 212, FY17 - 328. Costs estimated for the purpose of this fiscal note include medical, food, contract housing, and additional FTE's to provide community supervision (probation). Est Fiscal Impact 2013-15 - \$4.2 million. Est Fiscal Impact 2015-17 - \$9.9 million and 6 additional FTE. See attachment for computation

District Court Data January 1, 2007 thru December 31, 2012 (6 years)						
	Total by Offense	Unknown - Misdemeanor A	Unknown - Misdemeanor B	Converted Degree	Adjusted Total by Offense	Average Offense Per Year
1st Offense	10,441		3,496	17	13,954	2,325.67
2nd Offense	3,489				3,489	581.50
3rd Offense	156	457			613	102.17
4th Offense	1,141				1,141	190.17
5 + Offense	134				134	22.33
Unknown	3,970	(457)	(3,496)	(17)	-	-
Total DUI and APC	19,331	-	-	-	19,331	3,222
Assumptions						
1) Offenses occur evenly through out the year						
2) Actual time incarcerated is equal to minimum mandatory sentence						
3) All time incarcerated for misdemeanor B and A (1st, 2nd, and 3rd offense) at county level						
4) 2nd offense probation is unsupervised and will not impact DOCR supervision caseloads; 100% of 3rd, 4th and subsequent offense probation is supervised and will impact DOCR supervision caseloads						
5) All time incarcerated for felony C (4th and subsequent offense) incarcerated at state level						
6) Contract housing beds \$70 per day (no treatment services included in rate)						

7) No deterrent effect was used in the estimate									
8) Estimated available drug court capacity (35) consumed by 2nd and 3rd offenses (no offset to 4 and subsequent incarceration)									
9) Revised 2013-15 estimated inmate population used in determining fiscal effect									
10) All aspects of the 24/7 sobriety program administered by the Office of the Attorney General									
Deterrent Effect		0%		0%		0%		0%	
Offenses Per Month									
3rd - Offense	8.51		8.51		8.51		8.51		8.51
4th +	17.71		17.71		17.71		17.71		17.71
Increase in Prison ADP	FY2014	FY2015	FY2016	FY2017					
4th + Offense	106	213	213	213					
Less:									
Current Ave of DUI Incarcerated	18	18	18	18					
Est Increase in Prison ADP	88	195	195	195					
Contract Housing	FY2014	FY2015	FY2016	FY2017					
Budgeted Capacity DOCR	1,298	1,298	1,298	1,298					
Revised Est Population	1,212	1,232	1,252	1,272					
Bill Effect	88	195	195	195					
Needed Beds	-	129	149	169					
Days	334	365	365	365					
Bed Cost Per Day	\$ 70.00	\$ 70.00	\$ 70.00	\$ 70.00					
Est Cost - Contract Beds (No Treat)	\$ -	\$ 3,296,653	\$ 3,808,352	\$ 4,318,881					
Increase in Probation	FY2014	FY2015	FY2016	FY2017					
3rd Offense	22	95	102	102					
4th + Offense	-	96	309	424					
Less:									
Current Ave of DUI Probation	199	199	199	199					
Total Estimated Increase	-	-	212	328					

Target Caseload / Officer		65		65		65		65		65
Necessary Officers		-		-		4				6
Est FTE Cost / Year	\$	75,000	\$	75,000	\$	75,000	\$	75,000	\$	75,000
Est Cost - Probation	\$	-	\$	-	\$	300,000	\$	450,000	\$	450,000
Inmate Costs										
		FY2014		FY2015		FY2016		FY2017		
13-15 Budgeted Medical	\$	6.49	\$	6.49	\$	6.49	\$	6.49	\$	6.49
Increase Inmates		88		195		195		195		195
Days		334		365		365		365		365
Increased Medical	\$	190,721	\$	461,991	\$	462,056	\$	462,012	\$	462,012
13-15 Budgeted Food	\$	4.96	\$	4.96	\$	4.96	\$	4.96	\$	4.96
Increased Inmates		88		195		195		195		195
Housed Outside Docr		-		129		149		169		169
Net Inc Inmates		88		66		46		26		26
Days		334		365		365		365		365
Increased Food	\$	145,759	\$	119,486	\$	83,278	\$	47,070	\$	47,070
Est Cost - Inmate		336,481		581,477		545,334		509,082		509,082
Est Total Cost		336,481		3,878,130		4,653,686		5,277,964		5,277,964
		Total Cost 13-15		4,214,611		Total Cost 15-17		9,931,649		
Supervision Fee Revenue		FY2014		FY2015		FY2016		FY2017		
Estimated Probation Increase		-		-		212		328		
Monthly Supervision Fee	\$	45.00	\$	45.00	\$	45.00	\$	45.00	\$	45.00
Months		11		12		12		12		12
Collection Rate		56.7%		56.7%		56.7%		56.7%		56.7%
Est Total Revenue	\$	-	\$	-	\$	64,962	\$	100,311	\$	100,311
		Total Revenue 13-15	\$	-	Total Revenue 13-15	\$	165,273			