



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2015 Biennium

**Bill #** HB0275

**Title:** Revise DUI laws

**Primary Sponsor:** Regier, Keith

**Status:** As Introduced

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2  | <input type="checkbox"/> Technical Concerns              |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$1,033,517	\$3,528,349	\$5,715,535
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>\$0</u>	<u>(\$1,033,517)</u>	<u>(\$3,528,349)</u>	<u>(\$5,715,535)</u>

**Description of fiscal impact:** This bill will change the sentencing guidelines for all felony driving under the influence convictions. The proposed language allows for an additional 5 year sentence on any felony DUI conviction, as well as lengthens the portion of the sentence that cannot be deferred or suspended and does not qualify for parole eligibility. These changes would have a sizeable, long term fiscal impact to the Department of Corrections.

### FISCAL ANALYSIS

#### Assumptions:

1. The Department of Corrections assumes that the maximum sentencing will be followed per the modified guidelines of this bill. These changes would take effect on July 1, 2013 and will substantially change the average length of stay for this population.
2. 310 offenders enter the Department of Corrections every year with a 1<sup>st</sup> felony DUI conviction.
  - a. 253 of these offenders complete a residential treatment program and the remainder of their sentence is deferred or suspended.
  - b. 57 of these offenders enter the prison system at a cost of \$92.88 per day. This rate is based on the cost per day for FY 2012, averaging all secure care facilities. Currently these offenders would serve

the remainder of their 13 month sentence, as this is the portion that is not deferred or suspended, and not eligible for parole. With the modified language they would serve the remainder of a 5 year sentence, or an additional length of stay equaling 47 months. The fiscal impact starts in the 14<sup>th</sup> month of the sentence, as they are currently accounted for in the first 13 months.

- i. These 57 offenders will enter the system at a rate of 4.75 per month. The first 5 will reach their 14<sup>th</sup> month in August of 2014 which is in FY 2015.
  - ii. There will be a total of 52 inmates in FY 2015, and then 57 each year after, which will have the additional length of stay.
  - iii. Total cost for these 52 inmates in FY 2015 is \$890,976.
  - iv. In FY 2016, there will be 109 inmates cumulative at a cost of \$2,895,017.
  - v. In FY 2017, there will be 166 inmates cumulative at a cost of \$4,959,317.
  - vi. These offenders will not start to be released to community supervision until July of FY 2019.
- c. The Department of Corrections assumes that this population also received the maximum sentence allowed under 61-8-731, MCA, Section 1(b) or 5 years. This means that these offenders will start to move from prison into community supervision in July of FY 2019 and will not leave supervision until the end of FY 2023. There will be no additional costs in the first four years, but the cost of supervision for FY 2019-FY 2024 would be \$1,938,585. This cost includes 57 inmates per year enter community supervision at a cost of \$4.62 per day, based on the FY 2012 probation and parole costs.
3. 57 offenders enter the Department of Corrections every year with a 2<sup>nd</sup> or subsequent felony DUI conviction.
- a. 25 of these offenders are currently sentenced under the guidelines of 46-18-502, MCA, Sentencing of Persistent Felony Offenders. It is the Department of Corrections' assumption that sentencing for this population will not change.
  - b. 16 of these offenders, sentenced under current sentencing guidelines, will finish residential treatment and be on community supervision for 5 years. Under modified sentencing guidelines, these offenders will serve an additional 5 years of community supervision at a current rate of \$4.62 per day.
    - i. These 16 offenders will enter the system at a rate of 1.33 per month. The first 2 offenders will begin their extended sentence requirement in August of FY 2019.
    - ii. There will be a total of 16 offenders in FY 2019, and each subsequent year which will have an additional length of community supervision. They will not start to leave supervision until FY 2024.
    - iii. There is no cost for these offenders until FY 2019. Cost from FY 2019 through FY 2024 for this population is \$545,420. This cost includes 16 inmates per year entering community supervision at a cost of \$4.62 per day, based on the FY 2012 probation and parole costs. Within this cost, 15 inmates will also leave supervision in FY 2024.
  - c. 16 of these offenders enter the prison system and are eligible for parole in 1/4 time or 15 months based on a 5 year sentence. These 16 offenders will not be eligible for parole for 30 months, based on the modified guideline of a 10 year sentence. Therefore they will spend an additional 15 months in a secure facility before entering community supervision.
    - i. These 16 offenders will enter the system at a rate of 1.33 per month. The first offender will begin their additional 15 month incarceration in November of FY 2015.
    - ii. There will be a total of 11 offenders in FY 2015 and 16 offenders each subsequent year that will serve an additional 15 months in a secure facility.
    - iii. The cost for the first 11 offenders in FY 2015 is \$142,541.
    - iv. The cost for FY 2016 is \$633,333.
    - v. The cost for FY 2017 is \$756,218.
    - vi. These 16 offenders will not start their additional sentence under community supervision until January of FY 2020. These offenders are currently supervised in the community for the

balance of their sentence. Therefore there is not a fiscal impact, until the additional 5 years allowed by the modified sentencing guidelines begin.

- vii. These 16 offenders enter community corrections at the same rate that they have entered the system, or the average of 1.33 per month. The cost of community supervision for this population between FY 2020 and FY 2024 is \$321,050.

	<b><u>FY 2014 Difference</u></b>	<b><u>FY 2015 Difference</u></b>	<b><u>FY 2016 Difference</u></b>	<b><u>FY 2017 Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
<b><u>Expenditures:</u></b>				
Operating Expenses	\$0	\$1,033,517	\$3,528,349	\$5,715,535
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$0	\$1,033,517	\$3,528,349	\$5,715,535
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	\$0	(\$1,033,517)	(\$3,528,349)	(\$5,715,535)

**Long-Term Impacts:**

1. The total fiscal impact to the Department of Corrections for FY 2018-FY 2024 is estimated to be \$81,677,711.

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*Sponsor's Initials*

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*Date*

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*Budget Director's Initials*

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*Date*