

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0826-01
Bill No.: HB 332
Subject: Crimes and Punishment; Drugs and Controlled Substances; Law Enforcement
 Officers and Agencies
Type: Original
Date: March 8, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	\$0 to (\$381,615)	\$0 to (\$415,350)	\$0 to (\$426,036)
Total Estimated Net Effect on General Revenue Fund	\$0 to (\$381,615)	\$0 to (\$415,350)	\$0 to (\$426,036)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety** - Divisions of the **Director's Office, State Highway Patrol** and the **State Water Patrol** each assume the proposal would not fiscally impact their respective agencies

Officials from the **Office of Prosecution Services** assume the proposal will not have a significant direct fiscal impact on county prosecutors.

Officials from the **Office of the State Courts Administrator (CTS)** assumes that depending on the degree of enforcement, there is the potential for a large increase in the number of cases filed. CTS would also anticipate an increase in the number of jury trials, and appeals, as defendants challenge the definition of "under the influence."

CTS states that any significant increase in the number of cases filed and the corresponding increase in the workload of the courts would be addressed in future budget requests.

Officials from the **Department of Corrections (DOC)** state this bill, if passed into law, makes it a crime for a person to be under the influence of a controlled substance. Penalty provisions for

ASSUMPTION (continued)

violations, the component of the bill to have potential fiscal impact for DOC, is for a class A misdemeanor.

Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of the State Public Defender (SPD)** state they will be required to provide representation in additional class A misdemeanors for persons under twenty-one years of age who are charged with being under the influence of a controlled substance

In Fiscal Year 2004, the SPD provided representation in 7,989 possession of a controlled substance cases. It is estimated that an additional 1,997 or 1/4 again as many indigent persons will be charged with the proposed new crime "under the influence of a controlled substance".

The SPD assumes the need for 4.25 FTE Attorneys (each at \$41,476 per year), 1.5 FTE Paralegal/Investigators (each at \$25,932 per year) and 1 FTE Secretary (at \$21,564 per year). The SPD estimates the total cost of the proposal to be \$381,623 in FY 2006, \$415,350 in FY 2007 and \$426,036 in FY 2008.

Since the assumptions of OPS, CTS and DOC do not concur with the assumptions of the SPD, **Oversight** will range the fiscal impact for the proposal from \$0 to the estimated cost of the SPD.

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
<u>Costs – Office of State Public Defender</u>			
Personal Service (6.75 FTE)	\$0 to (\$202,211)	\$0 to (\$248,720)	\$0 to (\$254,938)
Fringe Benefits	\$0 to (\$86,263)	\$0 to (\$106,105)	\$0 to (\$108,756)
Equipment and Expense	<u>\$0 to (\$93,141)</u>	<u>\$0 to (\$60,525)</u>	<u>\$0 to (\$62,342)</u>
<u>Total Costs – SPD</u>	<u>\$0 to (\$381,615)</u>	<u>\$0 to (\$415,350)</u>	<u>\$0 to (\$426,036)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$0 TO (\$381,615)</u>	<u>\$0 TO (\$415,350)</u>	<u>\$0 TO (\$426,036)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

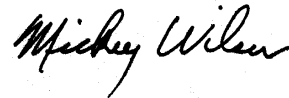
This proposal creates the crime of being under the influence of a controlled substance, a class A misdemeanor. Currently, the possession, purchase, distribution, or manufacture of a controlled substance is prohibited, but not being under the influence.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Office of the State Courts Administrator
Department of Corrections
Department of Public Safety
Office of Prosecution Services
Office of the State Public Defender



Mickey Wilson, CPA
Director
March 8, 2005