

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 7903**

**BILL NUMBER: HB 1737**

**DATE PREPARED: Mar 6, 2001**

**BILL AMENDED: Mar 6, 2001**

**SUBJECT: Drunk Driving.**

**FISCAL ANALYST: Mark Goodpaster**

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**FUNDS AFFECTED:  GENERAL  
 DEDICATED  
 FEDERAL**

**IMPACT: State & Local**

**Summary of Legislation:** (Amended) This bill has the following provisions:

(A) It establishes the crime of operating while intoxicated with at least one child under the age of 18 in the vehicle. It makes operating a motor vehicle with an alcohol concentration of at least .08% and less than .10% with a child in the vehicle a Class A misdemeanor. (B) It makes operating a motor vehicle with an alcohol concentration of at least .10% with a child in the vehicle a Class D felony. (C) It makes operating a motor vehicle under the influence of a controlled substance with a child in the vehicle a Class A misdemeanor. (D) It makes operating while intoxicated with a child in the vehicle a Class D felony. (E) It gives the judge discretion to impose mandatory 5 days in jail or 30 days of community service. (F) It provides 6-month to 2-year license suspension for a person who operates a vehicle with an alcohol concentration of at least .10% or more with a child in the vehicle. (G) It removes provision calling for lifetime license suspension for third operating while intoxicated offense. (H) It makes operating while intoxicated with a child in the vehicle and an alcohol concentration of at least 0.15% nonsuspendible. It makes operating while intoxicated (per se or impaired) with a child in the vehicle while having a previous conviction for OWI (per se or impaired) nonsuspendible. It makes the first offense of operating while intoxicated with a child suspendible (unless the driver's alcohol concentration is at least .15%). (I) It requires lifetime license suspension for persons convicted of operating while intoxicated causing death and for a third or subsequent operating while intoxicated conviction. It reduces the availability of hardship licenses for persons with lifetime license suspensions. (J) It increases mandatory jail time for various alcohol offenses. (K) It provides that drug and alcohol assessments and programs that are used by the court must be administered by the court, certified by the Division of Mental Health, or authorized under a circuit court alcohol abuse deterrent program. It makes technical changes.

**Effective Date:** July 1, 2001.

**Explanation of State Expenditures:** (Revised) This bill provides for a range of penalties for suspension of an individual's driver license for offenses related to driving while intoxicated. It also increases mandatory

jail time for various alcohol-related offenses.

State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. In addition, more convictions are possible since the allowable alcohol concentrations have been lowered to at least .08% and less than .10%.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,700 in FY 1999. Individual facility expenditures ranged from \$14,936 to \$37,807. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders it is approximately ten months.

**Explanation of State Revenues:** If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. A Class A misdemeanor is punishable by up to one year in jail. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

Provision K: Under IC 9-30-9-3, circuit courts may establish alcohol abuse deterrent programs requiring the administration of antabuse or any other chemical deterrent to the use of alcohol. The current maximum fee that can be charged is \$350. Proceeds from these fees are deposited in the county alcohol abuse deterrent fund. There are at least two programs that currently exist under this statute.

Under IC 12-23-14, the courts having misdemeanor jurisdiction in a city or county may establish alcohol and drug service programs. The maximum fees that these programs may charge is \$300. The proceeds of these fees would be deposited in the city or county user fee fund. The Judicial Center reports that currently 50 programs exist under this statute.

**State Agencies Affected:** Bureau of Motor Vehicles; Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs Association, Department of Correction.