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FISCAL IMPACT STATEMENT

LS 6421

BILL NUMBER: HB 1112

NOTE PREPARED: Mar 31, 2005

BILL AMENDED: Mar 29, 2005

SUBJECT: Direct Placement in Community Corrections.

FIRST AUTHOR: Rep. Richardson

FIRST SPONSOR: Sen. Long

BILL STATUS: As Passed Senate

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

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

- A. It allows certain persons convicted of operating a vehicle while intoxicated with two prior unrelated convictions to be placed directly in a community corrections program if: (1) the person is required to serve the nonsuspendible part of the person's sentence in a work release program or a program that uses electronic monitoring as part of the person's supervision; and (2) the person participates in a court-approved substance abuse program.
- B. It provides that a person convicted of operating a vehicle while intoxicated causing death or causing serious bodily injury may not be placed directly in a community corrections program if the person has had two prior OWI convictions.
- C. It specifies that operating while intoxicated causing death as a Class B felony by a person at least 21 years old is nonsuspendible.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (Revised) *Provision A* -- A person who is convicted of operating a vehicle while intoxicated (OWI) with one or more prior unrelated convictions of an OWI commits a Class D felony. A Class D felony is punishable by a term of imprisonment ranging between six months and three years. Under current law, offenders with a current conviction of an OWI and one prior unrelated conviction of an OWI may be directly committed to a community corrections program. This bill would permit courts to place offenders *with more than one* prior unrelated OWI conviction in a community corrections program. For each offender committed to a community corrections program, the state avoids the cost of one offender being incarcerated in Department of Correction (DOC) facilities.

DOC reports that the number of offenders who have been committed for an OWI with one or more prior OWI convictions was 1,287 in FY 2004. Based on a packet search of 10% of these offenders committed with more than one OWI conviction in FY 2002, DOC found that 20% of these offenders had one prior offense, while the remaining 80% had two or more prior unrelated offenses.

The following table was compiled based on the number of offenders who were committed from counties with and without a community corrections program.

Number of Offenders Committed to DOC for Operating a Vehicle While Intoxicated With One or More Prior OWI Convictions, FY 2004			
<u>Offenders With:</u>	From Counties with		<u>Total Commitments</u>
	<u>Community Corrections Programs</u>	<u>No Community Corrections Programs</u>	
One Prior Offense (20%)	197	60	257
More than One Prior Offense (80%)	<u>788</u>	<u>242</u>	<u>1,030</u>
Total Commitments	<u>985</u>	<u>302</u>	<u>1,287</u>

Note: A packet search by DOC in FY 2002 of 10% of these commitments showed that 20% had one prior conviction and the remaining 80% had more than one prior conviction.

Based on these estimates, an estimated 788 offenders who were committed to DOC in FY 2004 could potentially be committed to a community corrections program depending on the availability of space and the discretion of the sentencing court and whether the person participated in a court-approved substance abuse program. The average expenditure to house an adult offender in a DOC facility was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281.

Depending on the community correction program in which an offender is placed, the average annual cost to the state for placing a felony offender in a program in FY 2004 was \$3,050 (state adult program grants in FY 2004 of \$28,286,344 ÷ 9,273 adult felony offenders committed to DOC in FY 2004).

Provision B would minimally reduce the number of offenders who would be eligible for direct placement in a community corrections program under *Provision A*, above. The specific number of offenders with current or prior OWIs causing serious bodily injury or death is not available.

Provision C would have an unknown effect on DOC's offender population. Under current law, any person who is convicted of causing death while OWI with a blood alcohol content of 0.15 must serve a mandatory minimum sentence of either two years for a Class C felony or six years for a Class B felony. The following table illustrates what changes would be made in the sentencing laws concerning causing death while OWI.

Proposed Changes in Offense for Persons Causing Death While OWI:			
		Age of Person	
		<u>Younger than 21</u>	<u>At least 21</u>
Blood Alcohol Content	Between 0.08 and 0.15 BAC or controlled substance in blood or intoxicated	Currently -- Class C Felony minimum 2 years to be served Proposed -- Sentence could be suspended	Currently -- Class C felony minimum 2 years to be served Proposed -- Sentence could be suspended
	At least 0.15	Currently -- Class C felony minimum 2 years to be served Proposed -- Sentence could be suspended	Currently -- Class B felony minimum 6 years to be served No Change Proposed

For the years between 2000 and 2004, 129 persons were committed to DOC for causing death while OWI. Of these, two individuals were younger than 21 years of age.

Explanation of State Revenues:

Explanation of Local Expenditures: Under current law, community corrections programs may already receive offenders who have been committed to DOC when they have had one prior OWI offense. Adding this provision to the sentencing laws could increase the sentencing options for the courts for offenders who have more than one prior unrelated OWI offense.

The local community corrections program will incur some additional cost for each offender sentenced to a community corrections program rather than to DOC. Each community correction program has distinct program options for offenders. Some programs are paid almost entirely by the offender, while other programs are financed by a combination of offender fees, and local, state, and federal funding.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, community corrections programs.

Information Sources: Department of Correction Planning Division.

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