

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

301 State House
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FISCAL IMPACT STATEMENT

LS 6093
BILL NUMBER: SB 294

DATE PREPARED: Oct 22, 2001
BILL AMENDED:

SUBJECT: Operating a Vehicle While Intoxicated.

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- (a) It is a Class A misdemeanor for a person less than 21 years of age to operate a motor vehicle while intoxicated with at least one passenger less than 18 years of age in the vehicle.
- (b) It provides that the offense is a nonsuspendible Class D felony if the operator is at least 21 years of age.
- (c) It prohibits certain persons who have had their driving privileges suspended for life from filing a petition to obtain a restricted driving permit for a specified period.
- (d) It prohibits persons who have been convicted of certain offenses involving operating a motor vehicle while intoxicated from obtaining a probationary license.
- (e) It requires a court to recommend lifetime suspension of driving privileges for persons who: (1) have at least three unrelated convictions for certain offenses involving operating a motor vehicle while intoxicated; or (2) are convicted of operating a motor vehicle while intoxicated and causing death.
- (f) It increases or establishes mandatory jail time for persons convicted of committing certain offenses involving operating a motor vehicle while intoxicated.
- (g) It provides that court-ordered drug and alcohol assessment and treatment programs must be: (1) administered by a court; (2) certified by the Division of Mental Health; or (3) authorized under a circuit court alcohol abuse deterrent program.

Effective Date: July 1, 2002.

Explanation of State Expenditures: The bill establishes the crime of operating a vehicle while intoxicated with at least one child under the age of 18 in the vehicle and bases the penalty on the age of the offender: offenders less than 21 years of age would be subject to a Class A misdemeanor and offenders 21 years of age or older would be sentenced as a nonsuspendible Class D felony. The bill also prohibits certain offenders from obtaining restricted driving permits or probationary licenses and increases the 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. 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 \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312. (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 DOC facilities for all Class D felony offenders is approximately ten months. The court would only be able to suspend the sentence of repeat offenders convicted of the Class D felony in excess of the minimum sentence, which is six 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, and 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. The average cost per day is approximately \$44.

A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail 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. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (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.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement.

Information Sources: Indiana Sheriffs Association, Department of Correction.