

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6530

BILL NUMBER: HB 1430

NOTE PREPARED: Dec 3, 2003

BILL AMENDED:

SUBJECT: Criminal Penalties and Incarceration Costs.

FIRST AUTHOR: Rep. Stutzman

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It requires a court to imprison a person for at least 60 days if the person commits certain drunken driving offenses while the person's driving privileges are suspended under the drunken driving laws.
- B. It requires an inmate not under Department of Correction (DOC) custody to pay county jail incarceration costs and requires counties to establish a prisoner reimbursement fund.
- C. It repeals conflicting provisions concerning prisoner reimbursement.

Effective Date: July 1, 2004.

Explanation of State Expenditures: *Provision A* could affect nine classes of traffic offenses related to operating a vehicle while intoxicated. These classes are shown in the table below.

The number of traffic offenders with suspended licenses is not known. The number of drivers who have suspended licenses and been rearrested and convicted for driving while intoxicated with a suspended license is also not known.

Under this provision, if an offender's driving privilege is suspended and the offender is convicted of committing a Class A misdemeanor or felony under the drunk driving laws, the offender would have to be imprisoned for at least 60 days. On average, felony offenders serving a term of incarceration in a state facility serve a sentence greater than 60 days. If the offender violating this provision by committing a felony offense would have served a term of incarceration less than 60 days in a state facility, then costs to the state could increase.

The average expenditure to house an adult offender was \$26,825 in FY 2002. (This does not include the cost

of new construction.) If offenders can be housed in existing facilities, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

<u>IC</u>	<u>Description</u>	<u>Term of Imprisonment</u>
Class A Misdemeanor		
9-30-5-1	Operating a vehicle with at least 0.15 blood alcohol content	Up to one year
9-30-5-2	OWI in a manner that endangers a person	
9-30-5-7(a)	Interlock device violation	
9-30-5-7(b)	Tampering with an interlock device	
Class D Felony		
9-30-5-3	OWI with previous conviction within past 5 years	Six months to three years or reduction to Class A misdemeanor
9-30-5-4	OWI causing serious bodily injury to another person	
Class C Felony		
9-30-5-4	OWI causing serious bodily injury with previous conviction within past 5 years	Two to eight years
9-30-5-5	OWI causing death	
Class B Felony		
9-30-5-5	OWI causing death with previous conviction within past 5 years	Six to twenty years

Explanation of State Revenues:

Explanation of Local Expenditures: *Provision A:* A Class A misdemeanor is punishable by up to one year in jail. If an offender would otherwise have served less than 60 days of incarceration or completed community service in lieu of a jail sentence, the length of stay in a county jail may increase. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Provision B and C:* Under current law, any county is permitted to establish a county Prisoner Reimbursement Fund if the county legislative body adopts an ordinance electing to do so. The jail inmates who would pay these funds are local government officials convicted of committing certain misdemeanors and felonies while performing official duties. The daily fee can not be more than \$30. Under current law, either the county sheriff or county attorney may collect the money.

As proposed, this bill requires these funds to be established, for the court to impose the fee, and for the sheriff or county attorney to collect a per diem fee of not more than \$30.

Amounts in the fund may only be used by the county for operating, constructing, repairing, remodeling, enlarging and equipping either a county jail or a juvenile detention center and only is appropriated by the county council.

The following table summarizes the differences between current law and the changes proposed under this bill.

	Current Law	Proposed
Counties Establishing Fund	Any County Adopting an Ordinance Electing to Establish a nonreverting county Prisoner Reimbursement Fund	All Counties Are Required to Establish this Fund
Imposing Fees	Gives court discretion	Requires court to impose fee
Fee Amount	Maximum daily fee of \$30	Maximum daily fee of \$30
Types of Offenses Fees Apply	Limited to ten misdemeanors and one felony that local government officials could be convicted of committing while performing official duties	Applies to all misdemeanants and felons not under the custody of the Department of Correction

As of October 2003, no county has established an ordinance to create a Prisoner Reimbursement Fund.

State Agencies Affected: Department of Correction.

Local Agencies Affected: County Sheriffs.

Information Sources: Bureau of Motor Vehicles, Indiana Sheriffs Association.

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