

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6751

BILL NUMBER: HB 1320

NOTE PREPARED: Dec 21, 2005

BILL AMENDED:

SUBJECT: Drug and Alcohol Control.

FIRST AUTHOR: Rep. Woodruff

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. *Probationary License* - The bill specifies that a court may require a person with a probationary license to install an ignition interlock device in addition to another condition of the probationary license or without imposing any other condition of the probationary license.
- B. *Arrest Warrant* - It authorizes a court to issue an arrest warrant for a probationer who has failed a chemical test.
- C. *Visiting a Common Nuisance* - It defines "family housing complex" to include subsidized housing, and specifies that a person who visits a location that is used one or more times to unlawfully use a controlled substance commits visiting a common nuisance, a Class B misdemeanor.

Effective Date: July 1, 2006.

Explanation of State Expenditures:

Explanation of State Revenues: *Visiting a Common Nuisance* – 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 B misdemeanor is \$1,000. 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: *Probationary License* – The cost of installing, monitoring, and calibrating an ignition interlock device is generally between \$60 and \$75 per month every month. The cost is paid by the person ordered by the court to have the device installed. The Bureau of Motor Vehicles reported the number of probationary DUI licenses issued between 2003 and 2005 as the following.

Probationary DUI Licenses Issued by CY		
2003	2004	2005*
8,111	7,936	6,985
* As of December 15, 2005.		

Arrest Warrant – An arrest is defined as "the taking of a person into custody, that he may be held to answer for a crime." (IC 35-33-1-5) This provision allows a court to order a person to be arrested for failing a chemical test. If more persons are arrested for failing a chemical test instead of being ordered to appear in court, the number of persons in jail awaiting trial would likely increase depending on how long they must wait for a hearing or whether they secure bail so they can be on pretrial release.

Between CY 2001 and 2003, the Department of Correction (DOC) reports the following information concerning county jails in Indiana.

Inmates Identified in County Jails by DOC Jail Inspectors						
Calendar Year	2001		2002		2003	
Felony Offenders Under DOC Contract	1,651	12.6%	1,615	11.8%	1,527	10.6%
Sentenced as Misdemeanant	3,128	23.8%	3,515	25.6%	2,623	18.1%
Criminal Defendants Awaiting Trial	8,374	63.7%	8,575	62.6%	10,302	71.3%
Offenders in County Jails	13,153	100.0%	13,705	100.0%	14,452	100.0%

During CY 2003, DOC reported that of the 39 counties that were either at or greater than jail capacity, the percent of inmates in county jails who were awaiting trial ranged from 22% to 100%. The average cost per day is approximately \$44.

Visiting a Common Nuisance – A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Visiting a Common Nuisance* – 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:

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

Information Sources: Department of Correction; Bureau of Motor Vehicles; Criminal Justice Institute

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