

FISCAL NOTE
Requested by Legislative Council
02/13/2013

Amendment to: HB 1302

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$8,262,522		\$9,109,431
Expenditures			\$8,267,337	\$8,262,522	\$12,089,977	\$7,014,262
Appropriations			\$8,267,337	\$8,262,522	\$12,089,977	\$7,014,262

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties		\$2,240,000	\$2,240,000
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Section 5 of the bill contains the increased penalties and will have a fiscal impact to DOCR, Office of Attorney General, and cities and counties.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

ND Association of Counties: Four additional days of jail time per case was used as an average impact of the proposed changes. At jail costs of \$70/day this equals \$1.12 million/year or \$2.24 million/biennium. To estimate the fiscal impact on DOCR operations, the DOCR obtained DUI conviction data from the State's District Courts from the period January 1, 2007 thru December 31, 2012. Over that time period there was a total of 19,331 DUI related convictions for an average of 3,222 DUI related convictions per year. The following assumptions were used: 1) All misdemeanor B and A offenses will be served at the county level and will have no fiscal impact to the DOCR; 2) All felony offenses will either be incarcerated at DOCR/DOCR contracted facilities, placed in DOCR contracted DUI treatment program, or be placed in drug court; 3) Estimated number of 2nd offense DUI's per year - 581, 3rd offense DUI's per year - 102 and estimated number of 4th or more offense DUI's per year - 213; 4) All DUI offenses occur evenly throughout the year; 5) Actual time incarcerated is equal to minimum sentence; 6) 50% of 2nd offense probation supervised by DOCR, and 100% of 3rd and 4th and subsequent supervised by DOCR; 7) No deterrent effect was used in the estimate; 8) 35 offenses per year diverted to drug court; 9) 50 offenses per year diverted to DOCR contracted DUI treatment program. Important to note: in estimating the fiscal effect of this bill a revised inmate population projection was used and is different from that used to build the 13-15 DOCR executive recommendation. The revised 13-15 inmate population projection average daily population is 1,591 while 1,484 average daily population was used for the executive recommendation.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Although the bill specifies that fines are to be levied, we are unable to determine at what rate or percentage of the fines levied would actually be collected. The Office of Attorney General other funds are from participant fees

(anticipated 5% growth each year). The revenues are based on the estimated number of days program participants may use and pay (\$5 per day) for SCRAM bracelets.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

County fiscal impact determined by 4000 DUI cases per year with an average of 4 additional jail days at a cost of \$70 per day. (\$1.12 million per year or \$2.24 million per biennium). The DOCR impact was determined by estimating 581 2nd offenses per year, 102 3rd offenses per year and 213 4th or more offenses per year. Using previously stated assumptions, 35 offenders per year would be diverted to drug court, 50 offenders per year would be diverted to DOCR contracted DUI treatment program. The number of offenders incarcerated in a DOCR or DOCR contracted facility would increase 42 in FY14, 160 in FY15, 159 in FY16 and 160 in FY17. This would cause DOCR facilities to reach capacity in FY15 resulting in a need to contract for additional bed space as follows: FY15 - 94, FY16 - 113 and FY17 - 134. Probation caseloads would increase as follows: FY15 - 276, FY16 - 503, FY17 - 618. Costs estimated for the purpose of this fiscal note include medical, food, contract housing, contract treatment program, and additional FTE's to provide community supervision (probation). See attachment for computation. Office of Attorney General fiscal impact: There are approximately 6,400 resident DUI's per year. In addition, approximately 950 children (17 and under) will likely participate in the 24/7 Sobriety program. As a result of this bill, the office estimates about 35% of the participants will use SCRAM bracelets. The Office of Attorney General currently has 374 SCRAM bracelets. This bill could require an estimated 2,573 additional bracelets which results in a net increase of 2,199 new bracelets. Each bracelet and required base station costs about \$1,450, which results in a total cost of \$3,187,825. Total 2013-15 biennium estimated expenditures are \$9,549,967 (\$8,262,522 from other funds - participant fees and \$1,287,445 from the general fund). The Office of Attorney General estimates its expenditures, exclusive of the bracelet costs, at \$6,362,142, for the 2013-15 biennium. Estimated expenditures for the 2015-17 biennium are \$7,014,262 which will be paid from participant fees (other funds). With estimated 2013-15 biennium participant fees revenue of \$8,262,522 and total estimated expenditures of \$9,549,967 additional estimated general fund expenditures of \$1,287,445 will be needed. Department of Transportation funding has been used in the past to purchase SCRAM bracelets and this funding is a possibility in the future.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

DOCR - Total 2013-15 biennium estimated appropriation needed \$6,979,892 (100% general fund) and 5FTE; 2015-17 biennium \$12,089,977 (100% general funds) and 10FTE. Attorney General - Total 2013-15 biennium estimated appropriations needed are \$9,549,967 (\$8,262,522 from other funds - participant fees and a \$1,287,445 general fund appropriation). Department of Transportation funding has been used in the past to purchase SCRAM bracelets and this funding is a possibility in the future. The Office of Attorney General estimates an appropriation of \$7,014,262 will be needed for the 2015-17 biennium from participant fees (other funds).

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District Court Data January 1, 2007 thru December 31, 2012 (6 years)							
	Total by Offense	Unknown - Misdemeanor A	Unknown - Misdemeanor B	Converted Degree	Adjusted Total by Offense	Average Offense Per Year	
1st Offense	10,441		3,496	17	13,954	2,325.67	
2nd Offense	3,489				3,489	581.50	
3rd Offense	156	457			613	102.17	
4th Offense	1,141				1,141	190.17	
5 + Offense	134				134	22.33	
Unknown	3,970	(457)	(3,496)	(17)	-	-	
Total DUI and APC	19,331	-	-		19,331	3,222	
Assumptions							
1) Offenses occur evenly through the year							
2) Actual time incarcerated is equal to minimum mandatory sentence							
3) All time incarcerated for misdemeanor B and A (1st and 2nd offense) at county level							
4) 50% of 2nd offense probation supervised by DOCR; 100% of 3rd, 4th and subsequent offense probation supervised by DOCR							
5) All time incarcerated for felony C (3rd, 4th and subsequent offense) incarcerated at state level							
6) Contract housing beds \$70 per day (no treatment included in rate)							
7) Contract Treatment program beds \$97.00 per day							
8) Available capacity in existing drug courts estimated at 35							
9) Revised 2013-15 estimated inmate population used in determining fiscal effect							
Deterrent Effect	0%	0%	0%	0%			
Offenses Per Month							
2nd Offense DOCR Probation	24.23	24.23	24.23	24.23			
3rd - Offense	8.51	8.51	8.51	8.51			
4th +	17.71	17.71	17.71	17.71			
Increase in Inmate ADP							
3rd Offense	FY2014 39	FY2015 50	FY2016 50	FY2017 50			
4th + Offense	106	213	213	213			
Less:							
Current Ave of DUI Incarcerated	18	18	18	18			
Total Increase Inmate ADP	127	245	244	245			

Less:								
Est Diverted to DOCR Contracted Treatment (1)	50		50		50		50	
Est Diverted to Drug Court	35		35		35		35	
Inmates Housed DOCR / Contract Beds (2)	42		160		159		160	
Est Contract Housing	FY2014	FY2015	FY2016	FY2017				
Budgeted Capacity DOCR	1,298	1,298	1,298	1,298				
Revised Est. Population	1,212	1,232	1,252	1,272				
Inmates Housed DOCR / Contract Beds (2)	42	160	159	160				
Needed Contract Beds - Overflow (3)	-	94	113	134				
Days	365	365	365	365				
Bed Cost Per Day	70.00	70.00	70.00	70.00				
Est Cost - Contract Beds - Overflow	-	2,391,573	2,899,670	3,413,573				
Est DOCR Contracted Treatment Beds	FY2014	FY2015	FY2016	FY2017				
DOCR Contracted Treatment Beds (1)	50	50	50	50				
Days	365	365	365	365				
Bed Cost Per Day	97.00	97.00	97.00	97.00				
Est Cost - DOCR Contracted Treatment Beds	1,770,250	1,770,250	1,770,250	1,770,250				
Increase in Probation	FY2014	FY2015	FY2016	FY2017				
2nd Offense	145	291	291	291				
3rd Offense	12	88	102	102				
4th + Offense	-	97	310	424				
Less:								
Current Ave of DUI Probation	199	199	199	199				
Total Estimated Increase	-	276	503	618				
Target Caseload / Officer	65	65	65	65				
Necessary Officers	-	5	8	10				
Est FTE Cost / Year	75,000	75,000	75,000	75,000				
Estimate Cost	-	375,000	600,000	750,000				
Inmate Costs	FY2014	FY2015	FY2016	FY2017				
13-15 Budgeted Medical	6.49	6.49	6.49	6.49				
Inmates Housed DOCR / Contract Beds (2)	42	160	159	160				
Days	365	365	365	365				
Increased Medical	99,337	378,077	377,808	378,077				
13-15 Budgeted Food	4.96	4.96	4.96	4.96				
Inmates Housed DOCR / Contract Beds (2)	42	160	159	160				

Increased Inmates - Contract Beds (3)	-	94	113	134	
Net Inc Inmates - DOCR Facility	42	66	46	26	
Days	365	365	365	365	
Increased Food	75,919	119,486	83,278	47,070	
Total Inmate Cost Increase	175,255	497,564	461,086	425,148	
Total Cost	1,945,505	5,034,387	5,731,006	6,358,971	
	Total Cost 13-15	6,979,892			
			Total Cost 15-17	12,089,977	