



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	S. 0852	Introduced on January 9, 2024
Author:	Davis	
Subject:	Driving Under the Influence	
Requestor:	Senate Judiciary	
RFA Analyst(s):	Gardner and Griffith	
Impact Date:	January 23, 2024	

Fiscal Impact Summary

This bill amends existing provisions related to driving under the influence (DUI) offenses. The bill allows both fines and terms of imprisonment to be assessed for convictions, requires a defendant to participate in a DUI victim impact panel, and modifies when an ignition interlock device (IID) must be installed on a defendant's vehicle. This bill also creates a new felony offense for second degree DUI that results in bodily injury and establishes a related penalty schedule, increases the mandatory prison time for felony first degree DUI offenses resulting in great bodily injury, and expands the offense of child endangerment to include instances of reckless vehicular homicide and reckless driving. Further, it increases the amount of time a person enrolled in the IID program may have his license suspended or denied; requires a person obtaining a temporary alcohol license to install an IID; increases the amount of time a person's driver's license, permit, or nonresident operating privilege may be suspended or denied; and authorizes restitution for minors or dependents to be paid by a defendant whose DUI offense results in the disability or death of a parent or guardian.

This bill will have no expenditure impact for the Department of Motor Vehicles (DMV). However, the agency reports that a minimum of 18 months will be needed to roll back the current system changes and fully implement the new requirements set forth in the bill.

This bill will have no expenditure impact for the Department of Alcohol and Other Drug Abuse Services (DAODAS), as it does not modify the agency's current responsibilities.

This bill will have no expenditure impact for the Department of Public Safety (DPS), as any savings relative to the modified administration of breath tests and the collection of blood and urine samples will be reallocated within the agency.

This bill will have no expenditure impact for the State Law Enforcement Division (SLED), as it requires the division to perform activities that will be conducted within the normal course of agency business.

This bill may result in an increase in the number of inmates housed by the Department of Corrections. However, no data are available to estimate such increase. According to Corrections, in FY 2022-23, the annual total cost per inmate was \$37,758, \$34,570 of which was state funded.

However, as the potential increase in incarcerations is unknown, any expenditure impact for Corrections is undetermined. Corrections indicates that if the bill results in a significant increase in the inmate population, the agency will request an increase in General Fund appropriations.

This bill will have no expenditure impact for Judicial, as the anticipated increase in general sessions court caseloads can be managed using existing staff and appropriations.

The Commission on Indigent Defense reports that the bill may increase their workload. The agency indicates that if the bill results in a significant increase in the workload, the commission will request an increase in General Fund appropriations.

This bill may increase General Fund and local expenditures as the Commission on Prosecution Coordination anticipates an increase in workload beginning in FY 2024-25. The commission anticipates the need for additional administrative staff support and office space but is unable to estimate the potential cost at this time. The agency anticipates requesting a General Fund appropriation increase to help cover these expenses. Also, the commission anticipates the need to hire one to two assistant solicitors for each of the sixteen circuits. The estimated cost per assistant solicitor is \$119,730, which includes \$80,000 salary, \$34,730 fringe, and \$5,000 operating expenses. The total approximate local expense will range from \$1,916,00 to \$3,831,000.

The Revenue and Fiscal Affairs Office (RFA) anticipates that this bill may result in an increase in local expenditures due to a potential increase in the local jail population resulting from the newly created felony offense, which is punishable by imprisonment or a fine, or both. However, as the number of such offenses that might occur in a given year is unknown, the potential increase in the local jail population and in local expenditures is undetermined.

As this bill creates new offenses, it may generate additional General Fund, Other Funds, and local fine revenue. However, as the number of such offenses that may occur in a given year and the resulting fines and fees that may be assessed are unknown, the revenue impact is undetermined.

Explanation of Fiscal Impact

Introduced on January 9, 2024

State Expenditure

The bill modifies the existing first offense penalties for a DUI or driving while having an alcohol concentration of eight one-hundredths of a percent or more to allow both fines and terms of imprisonment to be assessed for a conviction. In addition, the bill authorizes judges to order a defendant's participation in a DUI victim impact panel, the cost of which may not exceed \$75, subject to annual inflation after 2026.

The bill also changes the following provisions related to the requirements for the installation of an IID:

DUI OFFENSE WHERE IID INSTALLATION IS NOT REQUIRED	
<i>Current</i>	<i>New</i>
Breath alcohol concentration of .00 one-hundredths of 1%	First offense, unless breath alcohol concentration of >15 one-hundredths of 1%

The bill also creates the following new second degree DUI offenses:

2ND DEGREE DUI RESULTING IN BODILY INJURY/PROPERTY DAMAGE >\$1,000	
<i>First Offense</i>	
Mandatory fine of ≥\$2,000 but ≤\$5,000 <u>and</u> mandatory imprisonment for ≥10 days but ≤5 years	
<i>Second Offense</i>	
Mandatory fine of ≥\$3,000 but ≤\$6,000 <u>and</u> mandatory imprisonment for ≥90 days but ≤10 years	

The bill also increases the term of mandatory imprisonment for first degree felony DUI offenses resulting in great bodily injury:

CHANGES TO FELONY DUI OFFENSE RESULTING IN GREAT BODILY INJURY	
<i>Current Offense/Punishment</i>	<i>New Offense/Punishment</i>
Mandatory fine of ≥\$5,100 but ≤\$10,100 <u>and</u> mandatory imprisonment for ≥30 days but ≤15 years	Mandatory fine of ≥\$5,100 but ≤\$10,100 <u>and</u> mandatory imprisonment for ≥90 days but ≤15 years

In addition, the bill adds reckless vehicular homicide and reckless driving to the list of child endangerment offenses and provides that, in addition to breath tests, blood and urine tests may be administered under implied consent when a person is arrested for a DUI offense. The bill also enables an arresting officer to offer a breath test if he believes a driver is under the influence of alcohol and to order that a urine sample be collected or to issue a search warrant to obtain a blood sample if he believes a driver is under the influence of drugs other than alcohol or a combination of alcohol and drugs. Breath samples must be collected within two hours of a person's arrest, and blood and urine samples must be collected within three hours. The bill also increases the amount of time a person's license is suspended or denied from at least one month to at least two months if the person enrolls in the IID program.

The bill also requires a person obtaining a temporary alcohol license to also obtain an IID from the DMV; the IID must be maintained for three months if a contested case hearing is sought and the final disposition has not been reached. The bill also removes the requirement that a person whose driver's license suspension has been upheld in a contested case hearing enroll in an IID program. Further, the bill increases the amount of time that a person's driver's license, permit, or nonresident operating privilege may be suspended or denied when the following circumstances are present:

SUSPENSION OR DENIAL TIME OF DRIVER'S LICENSE, PERMIT, OR NONRESIDENT OPERATING PRIVILEGE		
<i>Initial Offense or No Offenses Within Past 10 Years</i>	<i>Current</i>	<i>New</i>
Alcohol test refused	6 months	1 year
Test taken, alcohol concentration ≥ 15 one-hundredths of 1%	1 month	2 months
<i>Second Offense</i>	<i>Current</i>	<i>New</i>
Alcohol test refused	9 months	2 years
Test taken, alcohol concentration ≥ 15 one-hundredths of 1%	2 months	4 months
<i>Third Offense</i>	<i>Current</i>	<i>New</i>
Alcohol test refused	12 months	3 years
Test taken, alcohol concentration ≥ 15 one-hundredths of 1%	3 months	6 months
<i>Fourth or Subsequent Offense</i>	<i>Current</i>	<i>New</i>
Alcohol test refused	15 months	4 years
Test taken, alcohol concentration ≥ 15 one-hundredths of 1%	4 months	8 months

This bill also creates a new felony offense for reckless driving resulting in great bodily injury, which is punishable by a fine of not less than \$500 nor more than \$2,500, imprisonment for not more than five years, or both. Additionally, it provides that a defendant convicted of a DUI-related offense that results in the death or disability of a parent or guardian of a minor child or dependent may be ordered by the sentencing court to pay restitution for the child or dependent of the victim for the duration of any probationary sentence until the child reaches 18 years of age, or 19 years if still in high school.

Department of Motor Vehicles. DMV reports that this bill is not expected to have an expenditure impact on the department. However, the bill would roll back a significant number of requirements of Act 55 of 2023 that are to go into effect on May 19, 2024. DMV has determined that it will require a minimum of 18 months to roll back these system changes and to fully implement the new requirements set forth in this bill.

Department of Alcohol and Other Drug Abuse Services. This bill does not modify current responsibilities for DAODAS and, therefore, will have no fiscal impact on DAODAS.

State Law Enforcement Division. The bill requires the department to perform activities that will be conducted within the normal course of agency business. As such, it will have no expenditure impact for SLED.

Department of Public Safety. The bill requires the department to perform activities that will be conducted within the normal course of agency business. As such, it will have no expenditure impact for DPS.

Department of Corrections. This bill may result in an increase in the number of inmates housed by the Department of Corrections. However, no data are available to estimate such increase. According to Corrections, in FY 2022-23, the annual total cost per inmate was \$37,758, of which \$34,570 was state funded. However, as the potential increase in incarcerations is unknown, the expenditure impact for Corrections is undetermined. Corrections indicates that if this bill results in a significant increase in the inmate population, the agency will request an increase in General Fund appropriations.

Judicial. Judicial reports that implementation of the bill may result in an increase in general sessions court caseloads, which can be managed using existing staff and appropriations. Therefore, the bill will result in no expenditure impact for Judicial.

Commission on Indigent Defense. This bill creates new offenses, which could result in an increase in the number of cases handled by the Commission on Indigent Defense. The commission indicates that if the bill results in a significant increase in the workload, the commission will request an increase in General Fund appropriations.

Commission on Prosecution Coordination. The Commission on Prosecution Coordination anticipates this bill will result in a significant increase in the number of DUI cases heard in general sessions courts. The commission anticipates the need for additional administrative staff support and office space but is unable to estimate the potential cost at this time. The agency anticipates requesting a General Fund appropriation increase to help cover these expenses. Also, the commission anticipates the need to hire one to two assistant solicitors for each of the sixteen circuits. The estimated cost per assistant solicitor is \$119,730, which includes \$80,000 salary, \$34,730 fringe, and \$5,000 operating expenses. The total approximate local expense will range from \$1,916,00 to \$3,831,000. Therefore, this bill may increase General Fund and local expenditures due to the anticipates increase in workload for the commission beginning in FY 2024-25.

State Revenue

This bill may result in an increase in fines and fees collected by the court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. RFA anticipates this bill may result in an undetermined increase in General Fund and Other Funds revenue if there is an increase in the collection of fines and fees by the court.

Local Expenditure

The Commission on Prosecution Coordination anticipates the need to hire one to two assistant solicitors for each of the sixteen circuits to assist with the increase in workload due to this bill. The estimated cost per assistant solicitor is \$119,730, which includes \$80,000 salary, \$34,730 fringe, and \$5,000 operating expenses. The total approximate local expense will range from \$1,916,00 to \$3,831,000. Therefore, this bill will increase local expenditures beginning in FY 2024-25.

RFA anticipates that this bill may result in an increase in local expenditures due to a potential increase in the local jail population resulting from the newly created felony offense, which is

punishable by imprisonment and fines, or both. However, as the number of such offenses that might occur in a given year is unknown, the potential increase in the local jail population and in local expenditure are undetermined.

Local Revenue

This bill may result in an increase in the fines and fees collected by the court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. RFA anticipates this bill may result in an undetermined increase in local revenue if there is an increase in the collection of fines and fees by the court.



Frank A. Rainwater, Executive Director