

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 21, 2013

TO: Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB260** by Callegari (Relating to requiring the use of an ignition interlock device on conviction of certain intoxication offenses as a condition of community supervision; imposing a fee.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB260, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from Texas Mobility Fund 365
2014	\$674,772
2015	\$674,772
2016	\$674,772
2017	\$674,772
2018	\$674,772

Fiscal Analysis

The bill would amend the Criminal Procedure and Transportation Codes to add a requirement to place an ignition interlock device on each motor vehicle owned by persons placed on community

supervision for intoxication offenses involving the operation of a motor vehicle if it is shown that: the defendant had an alcohol concentration of 0.15 or greater; the defendant at the time of the offense refused a request of a peace officer to provide a specimen of the defendant's breath or blood for an alcohol test; or the conviction is a second or subsequent intoxication-related offense under Sections 49.04-49.08 of the Penal Code.

The bill would require courts to obtain criminal history record information of a defendant prior to placing a person under community supervision for offenses under Section 49.04-49.08 of the Penal Code to determine whether the defendant was previously convicted of offenses that would require the installation of an ignition interlock device in the defendant's vehicle or vehicles. In cases that would not require an ignition interlock device to be installed on a defendant's vehicle or vehicles, the bill would require courts to conduct a risk assessment on the probability the defendant would commit a subsequent similar offense. If the risk assessment shows the individual is a "medium to high" risk, then the court shall require that an ignition interlock device be installed in the defendant's vehicle or vehicles.

For intoxication offenses not involving a motor vehicle, the bill would also amend the Code of Criminal Procedure to make it discretionary in some instances and mandatory in others for the court placing a defendant on community supervision to require a defendant to have an ignition interlock device installed on the appropriate non-motor vehicle, i.e., aircraft, watercraft, or amusement ride.

The bill would require vendors of ignition interlock devices to pay local community supervision and corrections departments a fee of \$2 for each day the device remains installed.

The bill would require the Legislative Budget Board to provide the legislature with two studies (one in December 2014 and the other in December 2016) on the effect ignition interlock devices may have upon reducing recidivism and promoting public safety during the three-year period following enactment of the bill.

The bill would take effect September 1, 2013.

Methodology

The Department of Public Safety (DPS) estimates the bill would result in increased revenues of \$674,772 per year to the Texas Mobility Fund. DPS projects 21,132 individuals each year would be subject to the provisions of the bill, based on carrying forward a fiscal year 2009-2012 average of the annual number of probated intoxication convictions. DPS also estimates the annual number of refusals resulting from a hearing is approximately 11,000, which added to the number of probated convictions would be a total of 32,132.

The DPS revenue estimate has two components. First is multiplying a fee of \$10 to update a probationer's license with the required restriction by the number of individuals each year subject to the provisions of the bill (32,132). Second is multiplying a fee of \$11 to remove the restriction from the probationer's license when released by the court by the same number of individuals. $(32,132 \times \$10) + (32,132 \times \$11) = \$674,772$.

It is assumed the costs for DPS associated with implementing the provisions of the bill could be absorbed within current appropriations.

The fiscal impact for the Legislative Budget Board to provide the studies required by the bill is indeterminate due to a lack of data concerning the number of probationers with ignition interlock

devices on their vehicles. The data necessary to conduct the analysis for the studies is not available because it is currently not being collected.

Technology

It is assumed any technology-related costs associated with implementing the provisions of the bill could be absorbed within current appropriations.

Local Government Impact

The bill could increase the local court and community supervision workloads associated with monitoring compliance of the additional conditions of probation required by the bill. There could also be potentially significant costs to local community supervision and corrections departments (CSCDs) for the payment of these devices, should certain offenders be determined indigent by the court, requiring local courts to pay for some or all of the equipment costs.

Nueces County CSCD reported that they would be required to hire 40 full-time officers to monitor the devices to be compliant with the bill, and estimated the costs at \$1,820,000 for fiscal year 2014, \$1,8740,000 for fiscal year 2015, and \$1,929,620 for fiscal year 2016.

The bill would require that ignition interlock device vendors pay local supervision and corrections departments \$2 per each day such a device is installed in a defendant's car. It is assumed this per diem payment would result in an indeterminate increase in local revenues. Whether these payments remitted by vendors would be sufficient to offset local costs associated with implementing the provisions of the bill is unknown.

Source Agencies: 405 Department of Public Safety, 696 Department of Criminal Justice, 212 Office of Court Administration, Texas Judicial Council

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