

**JBC STAFF FISCAL ANALYSIS
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING THE PENALTIES FOR PERSONS WHO DRIVE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

Prime Sponsors: Senator King S.

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Summary of Amendments Made to the Bill After the 04/04/12 Legislative Council Staff Revised Fiscal Note Was Prepared

None.

JBC Staff Concurrence with Legislative Council Staff Fiscal Note

Concurs **Does Not Concur** **Updated Analysis**

Amendments/Appropriation Status

The bill requires but does not contain an appropriation clause. Staff has prepared amendment **J.001** (attached) to add a provision appropriating \$423,734 General Fund and 2.4 FTE to the Office of the State Public Defender and \$16,280 cash funds to the Department of Revenue for FY 2012-13. The appropriation to the Department of Revenue is then reappropriated to the Governor's Office of Information and Technology. In addition, as required by Section 2-2-703, C.R.S., the amendment adds the following five year appropriation to the Department of Corrections to statute:

| Summary of Department of Corrections Appropriations in Amendment J.001 | | | | |
|---|--|---|---|--|
| Fiscal Year | Transfer From the General Fund to Capital Construction Fund | Appropriation From the Capital Construction Fund to the Corrections Expansion Reserve Fund | Appropriation From the General Fund to the Department of Corrections | Total General Fund Appropriation and Transfer |
| FY 2012-13 | \$0 | \$0 | \$0 | \$0 |
| FY 2013-14 | 0 | 0 | 20,706 | 20,706 |
| FY 2014-15 | 0 | 0 | 6,212 | 6,212 |
| FY 2015-16 | 0 | 0 | 0 | 0 |
| FY 2016-17 | 0 | 0 | 0 | 0 |
| Total | \$0 | \$0 | \$26,918 | \$26,918 |

These appropriations correspond to those indicated in the April 4, 2012 Legislative Council Staff Fiscal Note.

Bill Sponsor Amendments

Sponsor amendment **L.005** (attached), which is described in detail in the attached Legislative Council Staff Memorandum dated April 4, 2012, reduces the bill's fiscal impact. Amendment **J.002** (attached) adds a corresponding provision to the bill appropriating \$12,000 General Fund to the Office of the State Public Defender and \$16,280 cash funds to the Department of Revenue for FY 2012-13. The appropriation to the Department of Revenue is then reappropriated to the Governor's Office of Information and Technology. There is no appropriation to the Department of Corrections. These appropriations accord with those indicated in the Legislative Council Staff Memorandum.

If L.005 is adopted, J.002 should be adopted and J.001 should not be adopted.

Points to Consider

1. This bill requires a \$423,734 General Fund appropriation to the Office of the State Public Defender for FY 2012-13 and requires \$20,706 and \$6,212 of General Fund appropriations in Fiscal Years 2013-14 and 2014-15 to the Department of Corrections, thereby reducing the amount of General Fund available for other purposes in those years.
2. The appropriation to the Department of Corrections in J.001 corresponds to the Legislative Council Staff Fiscal Note, which reflects the new Legislative Council Staff policy regarding sentencing bills. Prior to 2009, fiscal notes included appropriations that covered both capital and operating costs for new beds based on the average costs of state-run prisons. Beginning in 2009, fiscal notes began incorporating costs associated with private prisons. The 2009 methodology used a prorated formula based on actual historical placement of prisoners between state-run facilities and private facilities. Thus, if a bill was expected to lead to three new people sentenced to the Department of Corrections, and two-thirds of offenders in that felony class had historically been housed in private prisons, the fiscal note would have shown costs reflecting the same placement (i.e., two offenders in private prison and one in a state facility, with capital and operating costs to match these placements.) Beginning in 2012, fiscal notes identify operating costs based on the private prison rate, instead of the blended rate used in previous years, and do not identify any need for capital construction costs. This assessment more accurately reflects the fact that fluctuations in the prison population in recent years have been accommodated through the use of private prisons. It also matches current budgeting policies of the General Assembly.