



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 916

PRINTERS NO. 4618

PRIME SPONSOR: Stephens

COST / (SAVINGS)

FUND	FY 2020/21	FY 2021/22
General Fund	See "Fiscal Impact"	See "Fiscal Impact"
Motor License Fund	See "Fiscal Impact"	See "Fiscal Impact"
County Funds	See "Fiscal Impact"	See "Fiscal Impact"

SUMMARY: Requires courts to evaluate repeat DUI offenders for the suitability of a substance monitoring program as a condition of bail and creates an act referred to as "Deana's Law", which amends Title 75 (Vehicle Code) to increase penalties and make other DUI-related changes. This legislation would take effect as follows:

- The amendments of 75 Pa.C.S. § 1532 and 3818 shall take effect in 60 days,
- The amendment of 75 Pa.C.S. § 1543(b)(1.1) shall take effect immediately,
- The amendment of 75 Pa.C.S. § 1556(b) shall take effect in eight months,
- The addition of Subchapter E shall take effect in ten months,
- The amendment or addition of 75 Pa.C.S. § 3805(c) and (c.1) shall take effect in 90 days,
- The addition of 75 Pa.C.S. § 3805(h.3) shall take effect in eight months,
- The amendment of 75 Pa.C.S. § 3807(a) shall take effect immediately, and
- The remainder of this act shall take effect in four months.

ANALYSIS: This legislation amends the Vehicle Code to increase penalties and require a substance monitoring program for repeat DUI offenders and makes other DUI-related changes.

Suspension of Operating Privilege: PennDOT shall restore the driving privileges to individuals who have an active sanction for a conviction of any offense under a Federal, State or other state's controlled substance law.

If an active sanction exists and a driver's operating privilege is eligible for restoration, no points shall be placed on the driver record and no restoration fee shall be imposed

Ignition Interlock Limited Licenses: The legislation provides that a petition for an ignition interlock limited license shall include proof of financial responsibility covering each vehicle the applicant requests to be permitted to operate. Upon approval of the petition, the ignition interlock system shall be installed in any motor vehicle to be operated by the applicant, and proof of installation shall be provided by the ignition interlock device vendor.

Relief from Administrative Suspension Program: This legislation also adds a new Subchapter E to create a 12-month suspension relief program. The relief program would only apply to subsequent suspensions received by an individual for driving while their license was previously suspended indefinitely for failing to respond to a citation or summons for a Vehicle Code violation or motor vehicle violation in another state, other than parking, and/or failing to pay associated fines, costs or restitution.

In order to receive relief for the subsequent suspensions, the individual must complete the license suspension for the original violation and pay the associated penalties and court costs in a single payment or through a payment plan. If an individual lacks the ability to pay, a court may order public service in lieu of payment.

DUI Grading Increases: The legislation increases the following gradings for certain repeat DUI offenders:

- An individual who violates the following and has two prior offenses commits an F3:
 - Section 3802 (a) (1) (general impairment from alcohol) where there was an accident resulting in bodily injury, serious bodily injury or death or an accident causing damage to a vehicle or property.
 - Section 3802 (b) (DUI with a BAC of .10 to .159).
 - Section 3802 (e) (DUI as a minor with a BAC of .02 or above).
 - Section 3802 (f) (DUI as a driver of a commercial vehicle or school vehicle with a BAC of .04/.02 or above).
- An individual who refuses a chemical or breath test or violates section 3802 (c) (DUI with a BAC of .16 or higher) or (d) (DUI involving controlled substances) and has the following number of prior offenses commits:
 - an F3 for two prior offenses; and
 - an F2 for three or more prior offenses.

A “prior offense” under current law is a DUI offense under section 3802 or a substantially similar offense in another jurisdiction committed:

- within in the previous 10 years; or
- on or after the date of the offense for which the defendant is being sentenced.

Consecutive Sentencing: A sentence imposed on an individual for a DUI offense who has two or more prior offenses shall be served consecutively to any other sentence the individual is serving or any other sentence imposed by the court.

Sentencing Enhancement: The Pennsylvania Commission on Sentencing, shall provide for a sentencing enhancement for a violation of section 3802(a)(1) where the individual refused testing of breath or chemical testing pursuant to a valid search warrant, court order or any other basis permissible by the Constitution of the United States and the Constitution of Pennsylvania or for a violation of section 3802(c) or (d) and where the individual has four or more prior offenses.

Ignition Interlock Changes: This legislation would increase the use of an ignition interlock device from one year to two years for an individual convicted of a DUI offense who has two or more prior offenses.

If a violation occurs in the two consecutive months prior to the date entered on the certificate, the vendor shall notify PennDOT as to the violation on a form designated by the department, and the department shall notify the person of the violation and that ignition interlock device usage shall continue until no violations have occurred within a 60-day period.

Accelerated Rehabilitative Disposition: Before a defendant receives accelerated rehabilitative disposition (ARD) for a DUI offense, the individual shall:

- admit that the Commonwealth's evidence would prove beyond a reasonable doubt the individual violated section 3802;
- agree that the admission may be used as a prior conviction for the purpose of increasing the grading and penalty for a subsequent offense; and
- voluntarily waive the defendant's right to challenge the use of ARD as a prior conviction.

Drug and Alcohol Assessments: The legislation also provides that an assessment for drug and alcohol treatment shall also include the use of medication-assisted treatment in conjunction with behavioral therapies if the treatment is clinically appropriate.

Substance Monitoring Program: The legislation establishes a substance monitoring program (program) and requires an evaluation. In all of the following circumstances, an individual must be evaluated by a court to determine whether, at the court's discretion, the individual may be ordered to participate in the program:

- While adjudication of a DUI violation is pending for an individual who has one or more prior offenses.
- While adjudication of two or more DUI violations are concurrently pending for an individual.
- As a condition of probation or parole where the individual has a DUI violation with one or more prior offenses.

A substance monitoring program must include a requirement that the individual use or participate in one or both of the following, as determined by the court:

- A continuous alcohol monitoring device, remote breath testing device or any other similar alcohol monitoring technology or device, other than an ignition interlock system, as determined by the court.
- Random drug testing or any other controlled substance monitoring technology or device as determined by the court.

When determining the devices or technologies to be used, the court must consider the individual's prior offenses, most recent DUI violation, any pending adjudication for DUI, the monitoring devices and technologies available to or utilized by the county, and any other factor deemed appropriate by the court.

If the court orders an individual to participate in the program, the individual is responsible for all associated costs of the program.

An individual ordered to participate in the program is prohibited from the following:

1. Imbibing alcohol, using controlled substances or both as determined by the court.
2. Tampering with any devices or technologies associated with the program.
3. Failing to comply with any other requirements ordered by the court as part of the program.

Nothing in section 3818 prohibits a court from ordering an individual pending adjudication for one DUI with no prior offenses to participate in a program as a condition of bail, probation, or parole.

FISCAL IMPACT: According to the Commission on Sentencing, there were 2,386 violations that were reported to the Commission in 2019 that would fall under the parameters of this legislation. Currently, 445 or about 18.7% of these sentences are committed to a state correctional institution with a minimum sentence of greater than one year. In addition to increases in these cases, there will also be an impact of consecutive county sentences aggregated that may become state sentences. Assuming the same 18.7% are sentenced to a term of imprisonment in a state correctional institution for one year, this would result in an additional 445 inmates in the state correctional system. According to the Pennsylvania Department of Corrections (DOC), the variable per inmate/per day rate for 300-599 inmates is \$43.60. This would result in the DOC incurring annual costs of roughly \$7.1 million in the first year.

Counties would also incur similar costs of housing inmates for an extended period of time when an offender has multiple sentences and remains in county jail for a longer period of time. Counties could also incur costs if a court would authorize that respective county to finance all or part of the costs of a substance monitoring program

Under current law, in order to have a suspended license restored by PennDOT, an individual must pay the license restoration fee of \$76. It is unknown at this point how many license suspensions would automatically be lifted, therefore, the amount of revenue loss to the Motor License Fund is indeterminable at this point.

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House Appropriations Committee (R)

DATE: November 19, 2020

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.