

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 773

**PRINTER NO.** 1022

**AMOUNT**

See Fiscal Impact

**FUND**

General Fund  
Motor License Fund  
Local Government Funds

**DATE INTRODUCED**

March 8, 2021

**PRIME SPONSOR**

Representative Quinn

**DESCRIPTION**

House Bill 773 amends Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes to create "Deana's Law," increasing penalties for repeat Driving Under the Influence (DUI) offenders.

This legislation amends section 3803 (relating to grading) as follows:

- An individual who refuses a chemical or breath test or violates section 3802 (c) (DUI with a BAC of 0.16 or higher) or (d) (DUI involving controlled substances) and has the following number of prior offenses commits:
  - 1) A felony of the third degree if the individual has two prior offenses (currently two or more prior offenses); and
  - 2) A felony of the second degree if the individual has three or more prior offenses (currently a felony of the third degree).

The felonies mentioned above are classified as follows:

- A felony of the second degree is punishable by a maximum term of imprisonment of not more than ten years; and
- A felony of the third degree is punishable by a maximum term of imprisonment of not more than seven years.

Section 3804 (relating to penalties) is amended by adding a subsection to provide for consecutive sentencing. § 3804 (c.2) provides that a sentence imposed upon an individual for a DUI offense who has two or more prior offenses shall be served consecutively to any other sentence being imposed by the court, except for those with which the offense must merge as a matter of law.

Additionally, a mandatory suspension of operating privileges for a period of 18 months for a conviction of the felony of the second degree is included to be consistent with the current suspensions for misdemeanors of the first degree and felonies of the third degree.

# SENATE APPROPRIATIONS COMMITTEE

## FISCAL NOTE

This act shall take effect in 120 days.

### **FISCAL IMPACT:**

According to 2019 data from the Pennsylvania Commission on Sentencing (commission) (the last year data is available), there were 379 convictions for the offenses mentioned above that resulted in a term of imprisonment of one year or greater in a state correctional institution.

For violations of 3802(a)(1) (refuse testing), 3802(c) and (d), a 4th offense increases from a felony of the third degree to a felony of the second degree. While the mandatory minimum sentence of imprisonment would not be impacted, the statutory maximum in each case of these cases would increase from 7 years to 10 years of incarceration.

For third or subsequent offenses, there were 2,326 violations reported to the commission in 2018. Approximately 25% (581) of those sentences included a term of imprisonment in a state correctional institution with a minimum sentence greater than one year. The provisions mandating consecutive sentencing would increase prison sentences for many defendants currently awaiting sentencing by the courts, as well as increasing the potential for many consecutive county sentences being increased to the extent that they become state prison sentences.

According to the Pennsylvania Department of Corrections (department), the marginal cost per inmate/per day for less than 300 inmates is approximately \$35.39. Assuming 25% (145) of those same dispositions resulted in an additional consecutive sentence of an additional term of imprisonment for one year, this would result in the department incurring an additional cost of approximately \$1.87 million in the first year.

Under current law, county judges maintain jurisdiction of all DUI cases mandating confinement in county jails or state prisons. To the extent the provisions relating to consecutive sentencing result in a change in the place of confinement from a county jail to state prison, the Commonwealth would realize an additional increase in cost. For every 100 consecutive county sentences that become a state sentence, there would be an additional cost to the department of approximately \$1.29 million.

The mandatory suspension of operating privileges for a period of 18 months for a conviction of the felony of the second degree is technical in nature and would not result in a fiscal impact to the Motor License Fund.