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## FISCAL IMPACT REPORT



SPONSOR: Cravens DATE TYPED: 02/03/02 HB \_\_\_\_\_

SHORT TITLE: DWI Implied Consent Hearings SB 421

ANALYST: Wilson

### APPROPRIATION

| Appropriation Contained |      | Estimated Additional Impact |               | Recurring or Non-Rec | Fund Affected |
|-------------------------|------|-----------------------------|---------------|----------------------|---------------|
| FY02                    | FY03 | FY02                        | FY03          |                      |               |
|                         |      | \$0.1                       | Indeterminate | Recurring            | General Fund  |

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB 399

### SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)  
 Taxation and Revenue Department (TRD)  
 Attorney General's Office (AG)  
 Public Defender Department (PDD)  
 Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Bill

SB 421 provides that implied consent hearings may be conducted by telephone at the discretion of the TRD, places the powers of the hearing officer into the statutory law and provides that the officer's statement would provide prima facie evidence of the elements required to sustain the revocation or denial of the person's license.

#### Significant Issues

Placing the hearing officer's powers in the statute, as opposed to in the current TRD regulations, makes it easier for the public to access those powers.

## Senate Bill 421 -- Page 2

Making the officer's statement prima facie evidence of the elements required to sustain the revocation or denial of the person's license shifts the burden to the driver to provide testimony or evidence to dispute the officer's allegation.

The PDD states that SB 421 legislation streamlines and enhances the process by which the Motor Vehicles Division of TRD can revoke a driver's license. The obvious result of this bill will be a significant increase in the number of licenses that are revoked each year since SB 421 cuts down on the amount of "process" a person facing revocation of a driver's license is due.

SB 421 decrees that the existing Rules of Evidence and Rules of Civil Procedure are *not* to be followed, but leaves it totally unclear what procedures *are* to be followed, leaving it up to each individual hearing officer at each individual hearing.

### FISCAL IMPLICATIONS

TRD states that the cost of completely replacing and distributing all the existing inventory of DWI books across the state would be substantial, but this should be offset by not incurring the expense of sending hearing officers to outlying areas to conduct hearings.

The PDD believes that its caseload will increase since a greater number of license revocations will result in an increased number of individuals driving with a revoked license and needing the PDD to defend them.

### ADMINISTRATIVE IMPLICATIONS

DPS believes that SB 421 will have a positive administrative impact as it allows officer to submit documents and make appearances in a simplified manner.

TRD notes that not all the field officers are equipped with a dedicated phone line for the hearings. TRD would need to adequately equip those offices. TRD would also need to rework the Notice of Revocation issued by the police officers and then reissue them to all offices.

### DUPLICATION

Duplicates HB 399, DWI Implied Consent Hearings

DW/ar