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FISCAL IMPACT REPORT



SPONSOR: Cravens DATE TYPED: 02/08/02 HB _____

SHORT TITLE: Multiple DWI Offender Registry SB 346

ANALYST: Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring Or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
			112.5 See Narrative	Recurring	General Fund

SOURCES OF INFORMATION

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

SUMMARY

Synopsis of Bill

Senate Bill 346 creates a registry of persons convicted of two or more DWI offenses to be maintained in a database by the local sheriff's offices and the DPS in cooperation with the AOC. SB 346 also precludes a cause of action against a public employee or public entity charged with enforcement of the act. Offenders who fail to register or who give false information will be guilty of a fourth degree felony.

Significant Issues

The AG has notes that SB 346 purpose is to improved law enforcement protection of communities from recidivism by DWI offenders through the creation of a local and statewide registry of these offenders. Information collected on these repeat offenders is not public record and is for law enforcement use only.

The individual offender must register with the local sheriff within 10 days of the second or subsequent conviction and must renew the registration annually for 10 years after the most recent conviction. The registrant must also notify the sheriff within 10 days of changing a residence. The offender who willfully fails to register or who willfully provides false information would be guilty of a fourth degree felony. This provision satisfies the requirement of criminal intent in the commission of a crime, by implicitly exempting from criminal sanctions any offender who does not know of the registration requirement, or who inadvertently provides the wrong information.

The offender will be notified of the registration requirement, and the duty to advise of any change of residence address, in writing by the court entering the conviction, and the offender must at that time sign a document indicating the notification has been provided and explained. The court is to then notify the county sheriff and the Department of Public Safety of the conviction that has been entered.

The local sheriff must forward the registration information to the DPS within 10 days of receipt .the DPS database will serve as a central registry. The AOC is to cooperate with DPS and permit complete access to the court's databases and ensuring integration of those databases with the law enforcement databases. The bill provides that state actors who follow the bill's directives may not be sued for the enforcement activities that it describes.

SB 346 language closely tracks the sex offender registration laws. Those laws have withstood numerous constitutional challenges such as "ex post facto", "bill of attainder", due process and equal protection challenges. While not universal, most courts have held that registration is not a punishment and therefore does not trigger these protections. One aspect of these analyses has been that the registration is closely related to the state's legitimate law enforcement interest, and has a relationship to the harm caused by the offense. Very few will argue against the proposition that every sex offense creates substantial harm, and all DWI offenses have the potential to cause substantial harm. The difference, though between potential and actual harm, may weaken the analogy between these two types of registries. Additionally, a second DWI conviction is a full misdemeanor, as opposed to the felony classification of all sex offenses resulting in a registration requirement.

FISCAL IMPLICATIONS

The AOC states that in order to comply with this bill, it would initially require a Systems Analyst II FTE to help in the development of specification requirements, and to ensure that data can be integrated with DPS. The systems analyst would be responsible for making changes to the database and for working with DPS. After the initial year, a half-time employee could be used for continued support and maintenance of the data. The AOC estimates that they will need \$75.0 the first year and \$37.5 thereafter.

There would be additional fiscal implications to the AOC that are not currently quantifiable. The AOC would be required to either create a notice for the offender or update its judgment and sentence form and train court staff on the use of the forms. A member of the court staff would also be required to explain the notice to the offender and send written notice to county sheriffs' offices and DPS.

DPS states that passage of SB346 is likely to have a positive fiscal impact on the DPS. It is unknown whether passage of the proposed legislation will affect any federal, state or local matching fund or appropriation. However, it should be noted that it may allow the DPS to access additional grants and grant funding available for this purpose.

The AG notes that there are unknown financial implications for sheriff's offices.

ADMINISTRATIVE IMPLICATIONS

The administrative impact to the judiciary will be commensurate with the increase in work to the court staff generated by SB 346

DW/ar:pr