

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6844
BILL NUMBER: SB 227

NOTE PREPARED: Jan 28, 2014
BILL AMENDED: Jan 27, 2014

SUBJECT: Alcohol and Medical Emergencies.

FIRST AUTHOR: Sen. Merritt
FIRST SPONSOR: Rep. McMillin

BILL STATUS: As Passed Senate

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. *Immunity from Arrest or Prosecution* - It provides that a person is immune from arrest or prosecution for certain alcohol offenses if the arrest or prosecution is due to the person: (1) reporting a medical emergency; (2) being the victim of a sex offense; or (3) witnessing and reporting what the person believes to be a crime. (Current law provides immunity from arrest or prosecution only if the person reports a medical emergency that is due to alcohol consumption.)
- B. *New Mitigating Circumstance* - It establishes a mitigating circumstance for the sentencing of a person convicted of a controlled substance offense if the person's arrest or prosecution was facilitated in part because the person requested emergency medical assistance for an individual in need of medical assistance due to the use of alcohol or a controlled substance.
- C. *New Deferral Program* - It permits a court to defer entering a judgment of conviction for an individual arrested for an alcohol offense if the individual was arrested after a report that the person needed medical assistance due to the use of alcohol if certain conditions are met.
- D. *Administration of Overdose Prevention Drugs* - It permits an emergency medical responder, a firefighter, or a law enforcement officer to administer an overdose prevention drug to a person suffering from an overdose. It also allows certain health care providers to prescribe, and a pharmacist to dispense, an overdose prevention drug for an emergency medical responder, a law enforcement agency, or a fire department.

Effective Date: Upon passage.

Explanation of State Expenditures: *New Mitigating Circumstance for Controlled Substance Crimes –*

Crimes involving controlled substances include narcotics, depressants, and stimulants that are either possessed or dispensed without a legal prescription as well as the possession, dealing, and manufacturing of illegal drugs like cocaine, methamphetamine, and marijuana. The offenses for either distributing, manufacturing, or possessing these substances can range from Level 6, possession of less than three grams of cocaine or a narcotic drug, to Level 2 felonies, for dealing in at least 28 grams (0.98 ounces) of a controlled substance.

Depending on the circumstance involved, the sentencing court could begin with the advisory sentence and then either increase the sentence due to aggravating circumstances or reduce the sentence due to mitigating circumstances.

Sentencing Chart for Felonies			
Level	Minimum	Advisory¹	Maximum
2	10 years	17.5 years	30 years
3	3 years	6 years	20 years
4	2 years	4 years	12 years
5	1 year	2 years	6 years
6	6 months	1 year	30 months

¹An advisory sentence is a guideline sentence that the court may voluntarily consider as the midpoint between the maximum sentence and the minimum sentence (IC 35-50-2-1.3).

The average expenditure to house an adult offender was \$19,386 in FY 2013. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,266 annually, or \$8.95 daily, per prisoner.

Administration of Overdose Prevention Drugs - The bill requires the Indiana Emergency Medical Services Commission to establish standards for distribution, administration, use, and training in the use of an overdose prevention drug. If the commission holds additional meetings to establish these standards, expenditures on per diem and reimbursement for traveling expenses for members of the commission would increase.

Explanation of State Revenues:

Explanation of Local Expenditures: *Immunity from Arrest or Prosecution* - A person could be immune from being arrested and prosecuted for the following misdemeanors involving alcohol.

Misdemeanor	Offense	Maximum Imprisonment	Maximum Fine
Class B	Public Intoxication	180 days in jail or probation	\$1,000
	Intoxication upon Common Carrier		
Class C	Illegal Possession by a Minor	60 days in jail or probation	\$500

Depending on the circumstances, this provision could reduce the number of persons who might be sentenced to either jail or to probation for alcohol-related violations. However, because the number of these alcohol-related misdemeanors is not reported at the state level, the specific impact cannot be determined.

New Deferral Program - Only persons without prior convictions for either public intoxication or illegal possession of alcohol by a minor are eligible for this program. If a person placed under custody of the court under this provision fulfills the court's conditions, the court shall dismiss the charges against the person. The total length of time that a person could be in this deferral program is 180 days.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction, Emergency Medical Services Commission.

Local Agencies Affected: Courts, local law enforcement agencies.

Information Sources: Indiana Code.

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