

PRISON/JAIL POPULATION COST ESTIMATE STATEMENT
NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY 2016

AMENDMENT NO. 44ya

AN ACT TO CLASSIFY VEHICULAR HOMICIDE AS A CRIME OF VIOLENCE.

A prison or jail impact statement has been requested for SB 44 due to the provisions that create the crime of aggravated vehicular homicide, with the penalty of a Class 2 felony.

The new provisions of the bill require that certain instances of vehicular homicide are elevated to aggravated vehicular homicide if the defendant, while under the influence of alcohol, drugs, or substances, operates a motor vehicle in a reckless manner and causes the death of another person, or operates a motor vehicle in a negligent manner *and*

- 1) Has two or more convictions of a violation under § 32-23-1 (DUI) within 10 years prior to the date of violation (excluding time of incarceration for those violations);
- 2) Has at any time been convicted of a violation of § 22-16-41 or § 22-18-36 (vehicular homicide or vehicular battery); or
- 3) Has a BAC of .17 or above at the time of violation, and causes the death of another person.

There were 25 convictions for vehicular homicide from January 1, 2010 to December 31, 2015, averaging about 4 per year. The changes to the law will not likely create any new offenders, but rather, elevate the charges and punishment of those already committing vehicular homicide. To determine the approximate number of current vehicular homicide convictions that would likely qualify for aggravated vehicular homicide, the LRC examined the average number of vehicular homicide convictions over the last six years and researched the facts of the cases to determine how many would have qualified under the new provisions.

Of those 25 convictions, the LRC determined that around 10 of the cases, or 42%, indicated a defendant with previous violations of § 32-23-1, or a defendant with a blood alcohol content above .17%. This equals approximately 2 cases of aggravated vehicular homicide each year. These defendants would have likely served time in prison for vehicular homicide regardless of the new provisions. However, the new provisions will create a longer prison sentence, and longer time served before parole eligibility, thus creating a prison impact.

Under the current law, vehicular homicide is a Class 3 felony, and the average sentence given 11.22 years in prison. Aggravated vehicular homicide is a Class 2 felony, with an average sentence of 12.89 years in prison. Therefore, defendants convicted under the new provisions would likely see sentences of 1.67 more years in prison than under the current statute.

Furthermore, the bill adds aggravated vehicular homicide to the list of violent crimes for purposes of parole eligibility. Currently, defendants convicted of vehicular homicide become eligible for parole after serving 30% to 50% of their sentence, depending on their criminal history. Under the new statute, those convicted of aggravated vehicular homicide would have to serve at least 50% to 70% of their sentence, depending on their criminal history. If we assume a defendant is given an average sentence, a defendant convicted of vehicular homicide is first eligible for parole after 3.36 years, while the same defendant would be eligible for parole after 6.44 years if convicted of aggravated vehicular homicide, serving a minimum of 3.08 more years in prison. Of note, due to the nature of parole, it is impossible for the LRC to know when parole may be granted, therefore we will be working under the assumption that defendants will be released at their first available eligibility to establish minimum standards.

Because these defendants would likely already be in prison for at least 3.36 years, the cost increase for the bill would not manifest until after that time. After that period of time, there will likely be an increase because approximately two defendants convicted of aggravated vehicular homicide each year will remain in prison for longer than if they were convicted of vehicular homicide. The impact will likely be as follows:

Year	Annual Convictions	Additional Cost
1	2	\$0.00
2	2	\$0.00
3	2	\$0.00
4	2	\$35,207.68
5	2	\$90,219.68
6	2	\$145,231.68
7	2	\$169,436.96
8	2	\$169,436.96
9	2	\$169,436.96
10	2	\$169,436.96
10-Year Total		\$948,406.88
Additional Cost:		

Approved: /S/Jason Hancock
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Date: 2/16/16
