

NOTE: As provided in LFC policy, this report is intended only for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used for other purposes.

The most recent FIR version (in HTML & Adobe PDF formats) is available on the Legislative Website. The Adobe PDF version includes all attachments, whereas the HTML version does not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR: Sharer DATE TYPED: 2/06/03 HB _____
 SHORT TITLE: Evading an Officer Penalty SB 81
 ANALYST: Maloy

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative	Recurring	General Fund

Relates to HB 87 and HB 30.

SOURCES OF INFORMATION

Responses Received From
 Department of Public Safety
 Public Defenders Office
 Attorney General's Office
 Administrative Offices of the Courts
 Corrections Department

SUMMARY

Synopsis of Bill

- Senate Bill 81 provides for new penalties for the crime of evading an officer. Currently, evading an officer is a misdemeanor. Pursuant to SB 81, the level of criminal offense for evading an officer would be determined by the nature of the criminal activity giving rise to the person in question to be sought by law enforcement. The level of offense breakdown is as follows:
 - A person who evades an officer in connection with a capital or first degree felony would be guilty of second degree felony evading.
 - A person who evades an officer in connection with a second degree felony would be guilty of third degree felony evading.
 - A person who evades an officer in connection with a third or fourth degree felony would be guilty of fourth degree felony evading.

- A person who evades an officer in connection with a misdemeanor or petty misdemeanor would be guilty of petty misdemeanor evading.

FISCAL IMPLICATIONS

SB 81 contains no appropriation. See ADMINISTRATIVE IMPLICATIONS for costs to agencies administering SB 81.

ADMINISTRATIVE IMPLICATIONS

- There will likely be only a moderate number of defendants to whom these heightened / additional charges would apply. However, SB 81 will result in an increased workload for the District Attorneys Office, the Public Defenders Office and the Courts.

Heightened penalties result in fewer plea bargains. Therefore, more cases will proceed to trial. These trials will be more complex. Therefore, the Public Defenders Office and the District Attorneys Office will have to contribute more time and resources to preparation and prosecuting / defending their case. Also, the Courts will have to absorb these longer trials into their already back-logged dockets.

- The bill will result in an increase in the length of terms of incarceration, probation and parole. This equates to the Corrections Department expending additional FTE and budget resources.
 - The contract/private prison annual costs of incarcerating an inmate based upon Fiscal Year 02 actual expenditures is \$23,552 per year for males. The cost per client to house a female inmate at a privately operated facility is \$25,117 per year. Because state owned prisons are essentially at capacity, any net increase in inmate population will be housed at a contract/private facility.
 - The cost per client in Probation and Parole for a standard supervision program is \$1,533 per year. The cost per client in Intensive Supervision programs is \$2,964 per year. The cost per client in department-operated Community Corrections programs is \$5,618 per year. The cost per client in privately-operated Community Corrections programs is \$10,953 per year

TECHNICAL ISSUES

- Seemingly, the intent of SB 81 is to punish more severely the person who is sought by officers for having committed a more serious underlying crime. Also, it appears that the underlying crime and the evading activity are to be tied together (arise out of the same incident, though not at the same time).

However, the language of the bill could more clearly tie the two events together. As written, SB 81 could be interpreted such that a person who years earlier was convicted of a first degree felony, but is presently / subsequently sought by officers for some other reason, could be found guilty of second degree evading. The same is true for each of the four levels of evading an officer set forth in SB 81.

- Another potential problem with SB 81 arises if the person is not convicted of the underlying offense for which he is sought by officers. The language of the bill could be interpreted such that he could not be convicted of evading, even if he did, in fact, attempt to evade an officer. In such a case the “highest crime committed by a person who commits evading” would be nothing. Thus, arguably, he would not be guilty of evading at any level of punishment pursuant to SB 81.
 - Language could be added to clearly denote that the crime of evading may stand independent of a failure to obtain a guilty verdict on the underlying charge.

SJM/sb