

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1470

As Engrossed: 4/5/2013

Bill Subtitle: TO ESTABLISH PRE-ADJUDICATION PROBATION PROGRAMS.

Basic Change :

Sponsors: Representatives Williams, Baine, Shepherd

This bill establishes a pre-adjudication probation program for people not charged with one of the following;

1. A criminal offense for which the person would be required to register as a sex offender under the Sex Offender Registration Act of 1997.
2. A felony involving violence as listed in § 5-4-501 (d) (2);
3. A felony involving a victim who was seventeen (17) years of age or younger at the time the felony was committed or
4. A felony involving a victim who was sixty-five (65) years of age or older at the time the felony was committed.
5. A traffic offense committed in any type of motor vehicle by a holder of a commercial learner's permit or commercial driver license at the time the traffic offense was committed. A traffic offense does not include a parking violation, motor vehicle weight violation or motor vehicle defect violation.

In addition the bill provides the record is to be expunged upon completion of the pre-adjudication probation program. This bill does not exclude violations of DWI or DUI for which a DFA Administrative Hearing may have suspended a person's driver's license.

Revenue Impact :

An unknown amount of driver's license reinstatement fees may be lost if the driver's license has been suspended by DFA at an Administrative Hearing for a DWI or DUI offense and the charge is expunged through the pre-adjudication probation program.

Taxpayer Impact :

Taxpayers, who are eligible under this bill, will be able to expunge their records upon completion of a pre-adjudication probation program if this bill is passed.

Resources Required :

Minimal programming will be required to create a transaction to expunge violations from driving records. Additional training of employees will be required to enter the expungement orders and reinstate driver's licenses which may have been suspended under DWI or DUI laws.

Time Required :

None

Procedural Changes :

Procedures would need to be developed to administer the expungement orders from the courts.

Legal Analysis :

HB1470 creates a sentencing alternative for state courts to provide for "pre-adjudication probation". "Pre-adjudication probation" is where a person is charged by felony information or indictment in circuit court, is arraigned, and enters a guilty plea before the court enters a judgment or pronounces a sentence. In other words, a pre-adjudication program is a diversion program that allows a person charged with a felony to be ordered to complete criminal sanctions such as payment of fines and

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1470

As Engrossed: 4/5/2013

Bill Subtitle: TO ESTABLISH PRE-ADJUDICATION PROBATION PROGRAMS.

restitution, serve jail time, probation, or community service, and the like without having a criminal conviction. If the person completes his or her criminal sanctions, the bill provides that the person's criminal record for the offense be expunged.

DFA requested an amendment to the bill to provide that the holder of a commercial learner's permit (CLP) or commercial driver license (CDL) that was charged with a traffic offense would be ineligible to be admitted into a pre-adjudication program. DFA's amendment was necessary in order to comply with federal law prohibiting a CLP or CDL holder from being able to "mask" or conceal a traffic offense from appearing on the person's driver record. DFA's amendment was incorporated into the most recent engrossed version of the bill.