

**Sentencing Guidelines Commission**  
**Suggested DUI Proposals**  
**November 14, 2014**

- 1) Reducing number of prior DUI offenses from 4 to 3 within 10 years

**Average Monthly Population Jail and Prison Impacts**  
**Four Priors in 10 Years to Three Priors in 10 Years**  
**Caseload Forecast Council**  
**October 10, 2014**

	Fiscal Year									
	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24
Jail AMP	-16	-33	-39	-40	-40	-40	-40	-40	-40	-40
Prison AMP (DOSAs)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Prison AMP (Non-DOSA)	109	229	276	282	282	282	282	282	282	282
Prison AMP (Total)	109	229	276	282	282	282	282	282	282	282

- 2) Reducing the Felony DUI seriousness level from V to IV – maximum impact

<b>Reducing the Serious Level From 5 to 4</b>	
<b>Bed Type</b>	<b>Bed Number</b>
<b>Jail</b>	0
<b>Prison</b>	-20

- 3) Reducing Felony DUI seriousness level from V to IV and reducing number of prior DUI offenses from 4 to 3 within 10 years

**Average Monthly Population Jail and Prison Impacts**  
**Seriousness Level V to IV & Priors 4 to 3**  
**Caseload Forecast Council**  
**October 10, 2014**

	Fiscal Year									
	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24
Jail AMP	-16	-34	-39	-41	-41	-41	-41	-41	-41	-41
Prison AMP (DOSAs)	0	0	0	0	0	0	0	0	0	0
Prison AMP (Non-DOSA)	40	129	184	207	212	213	213	213	213	213
Prison AMP (Total)	40	129	184	207	212	213	213	213	213	213

- 4) Exclude non-felony DUI offenses from scoring – maximum impact

<b>No Scoring of Prior Non-Felony DUI Convictions</b>	
<b>Bed Type</b>	<b>Bed Number</b>
<b>Jail</b>	6
<b>Prison</b>	-44

- 5) Exclude non-felony DUI offenses from scoring and reducing number of prior DUI offenses from 4 to 3 – maximum impact

<b>No Scoring of Prior Non-Felony DUI Convictions And Reducing the Number of Priors From 4 to 3</b>	
<b>Bed Type</b>	<b>Bed Number</b>
<b>Jail</b>	-38
<b>Prison</b>	186

- 6) Removing non-felony DUI offenses from scoring and reducing number of prior DUI offenses from 4 to 3 within 10 years

**Average Monthly Population Jail and Prison Impacts  
No Scoring Priors & Priors 4 to 3  
Caseload Forecast Council  
October 10, 2014**

	<b>Fiscal Year</b>									
	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>
<b>Jail AMP</b>	-16	-28	-32	-32	-32	-32	-32	-32	-32	-32
<b>Prison AMP (DOSAs)</b>	0	0	0	0	0	0	0	0	0	0
<b>Prison AMP (Non-DOSAs)</b>	30	94	128	140	142	142	142	142	142	142
<b>Prison AMP (Total)</b>	30	94	128	140	142	142	142	142	142	142

- 7) 1<sup>st</sup> and 2<sup>nd</sup> degree felony DUI – See attached
  
- 8) DUI DOSA – impact would be minimal
  - 80 non-exceptional felony DUI sentences in fiscal year 2013
  - Of those, only 9 would receive a prison DOSA and 2 would receive residential DOSA
  - 69 of the 80 would still receive a regular felony DUI sentence
  
  - If number of prior DUI offenses was reduced from 4 to 3, there would be an estimated 223 new felony DUI sentences.
  - Of those, only 26 would receive a prison DOSA and only 6 would receive a residential DOSA.
  - 191 of the 223 would still receive a regular felony DUI sentence.
  
- 9) Sobriety Check Points – Members passed a motion to recommend the legislature support sobriety check points.

## Splitting Felony DUI into First and Second Degree Issues and Estimated Impact

The proposal to split felony DUI into degrees cannot be estimated with the data currently provided by the Administrative Office of the Courts (AOC) to the Caseload Forecast Council (CFC).

The basic felony DUI degree proposal discussed at the last Sentencing Guidelines Commission meeting (October 10, 2014) would split felony DUI into first degree and second degree, based on both the number of priors in 10 years and the number of priors in a lifetime. Three or four priors in 10 years would become second degree felony DUI, while five-plus priors in a lifetime would become first degree felony DUI. Additionally, a felony DUI in history would make the current DUI first degree, as would a vehicular homicide-DUI or a vehicular assault-DUI in history.

Unfortunately, the impact of such a proposal cannot be estimated at this time.

AOC currently provides non-felony DUI data to the CFC in summary form, based on certain look-back periods. The tables that would be used for the first degree/second degree estimates are directly below.

Look Back	Number of Priors											
	1	2	3	4	5	6	7	8	9	10	11	12
10-Year	3,023	857	223	60	16	3	1	0	0	0	0	0
Lifetime	3,710	1,320	562	243	105	55	25	9	3	0	1	2

The issue is that it is impossible to determine how many offenders who fall into three or four prior categories for the 10-year look back (2<sup>nd</sup> degree) also fall into the five or more prior categories for the lifetime look back (1<sup>st</sup> degree). (Or, for that matter, how many offenders in the one or two prior categories for the 10-year look back fall into the five-plus lifetime category.)

There is no information available on which to base assumptions for the estimates, thus making any attempt at estimating the impact indefensible.

It is possible to do a degree proposal if both degrees are based on the same look back period. If that look back is the current 10-year, and if 1<sup>st</sup> degree were ranked at Seriousness Level VI and 2<sup>nd</sup> degree were ranked at Seriousness Level IV, the impact would be approximately 238 beds. The bed impact of reducing the Seriousness Level of all felony DUIs from V to IV is 213 beds. Approximately 11 of the current felony DUIs (four-plus priors) would not become 2<sup>nd</sup> degree. They would, instead, become 1<sup>st</sup> degree, thereby adding to the 213 bed impact by approximately 25 beds.