

**SUBJECT:** Seventy-two continuous jail hours for repeat intoxication offenders

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 7 ayes — Keel, Denny, Escobar, Hodge, Pena, Raymond, Reyna  
0 nays  
2 absent — Riddle, P. Moreno

**WITNESSES:** For — Karen Housewright, MADD  
Against — None  
On — David Weeks

**BACKGROUND:** Under Penal Code, sec. 49.09(a) conviction of a second intoxication-related offense (driving while intoxicated, boating while intoxicated, flying while intoxicated, or operating an amusement ride while intoxicated) is a Class A misdemeanor, with a minimum confinement of 30 days in jail.  
  
Code of Criminal Procedure, art. 42.12, sec. 13(a) states that if a judge grants community supervision ( probation) for a person convicted of a second intoxication-related offense under sec. 49.09(a), the judge must require that person to spend three days in jail in addition to the terms of the probation.

**DIGEST:** HB 157 would amend sec. 13(a) to require judges who grant community supervision to a second-time offender to require the person spend 72 continuous hours, rather than three days, in jail.  
  
The bill would take effect September 1, 2005, and apply only to offenses occurring on or after that date.

**SUPPORTERS SAY:** When the Legislature enacted sec. 13(a) mandating that a judge who grants community supervision to a second-time intoxication offender must require the person to spend three days in jail, the Legislature intended three days to mean three full days. In practice, however, this has not been

the case. In many counties, an offender who begins a three-day term late Friday night will be released early Sunday morning – meaning only one-and-one-half days actually spent in jail. In order for the penalty to have its full deterrent value, an offender needs to serve the full three days in jail.

Concerns that the bill would serve as a costly unfunded mandate to counties are exaggerated. According to the fiscal note, HB 157 would have no fiscal implication to local government units. In addition, county jails already have systems that track the arrival and departure of inmates. The cost and effort of aligning existing tracking systems with the 72-hour requirement would be minimal.

**OPPONENTS  
SAY:**

HB 157 would create an administrative burden for county jails, requiring them to develop expensive and complicated systems for monitoring the exact time at which offenders arrive and the exact time they should be released. Because offenders have a right to be released after their time is served, jails would have to keep careful records of each offender to ensure that no one was kept longer than required.

The bill also effectively would increase the cost of operating county jails, thus acting as an unfunded mandate. It would keep more people in jail for longer periods of time, which would force counties to keep more guards on duty at taxpayer expense.