DRUG OFFENDER REFORM ACT (DORA)

LFA LEGISLATIVE FISCAL ANALYST

SOCIAL SERVICES AND EXECUTIVE OFFICES AND CRIMINAL JUSTICE APPROPRIATIONS SUBCOMMITTEES
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ISSUE BRIEF

SUMMARY

The Drug Offender Reform Act (DORA) began as a three year pilot program in 2005 but was expanded statewide in 2007 prior to the completion of the pilot study. DORA is intended to provide selected felony offenders with drug treatment and increased community supervision in an effort to reduce the costs associated with future criminal behavior. The Legislature initially appropriated $1,418,000 over three years for the DORA pilot and subsequently appropriated $9,000,000 for the statewide program in FY 2009. As a result of a subsequent downturn in state revenues, the DORA program was reduced to a modified implementation in only six of the 13 local substance abuse authority areas. In FY 2012, the Legislature appropriated $2,979,000 in ongoing funding for DORA. The Governor's budget recommendation for FY 2013 does not include any new funding in addition to the base budget amount of $2,927,500 for the DORA program. A Fiscal Analyst recommendation is provided.

LEGISLATIVE ACTIONS

1. The Fiscal Analyst recommends the Subcommittee adopt the following intent statement regarding the Drug Offender Reform Act, or DORA, program for FY 2013:

   The Legislature intends the DORA (Drug Offender Reform Act) program report to the Office of the Legislative Fiscal Analyst by September 1, 2012 regarding how it has implemented the five strategies intended to strengthen the DORA program recommended by the Utah Criminal Justice Center in its November 2011 Drug Offender Reform Act: DORA Statewide Report. *If these strategies have not been implemented, the Legislature further intends the DORA program provide specifically why each recommendation has not been adopted.*

UNIVERSITY OF UTAH CRIMINAL JUSTICE CENTER 2011 FINDINGS

The University of Utah Criminal Justice Center (CJC) conducts an annual evaluation of DORA program implementation and outcomes. Based upon its 2011 findings, the CJC recommends the following to strengthen the program:

1. Examine ways to improve outcomes for high risk offenders (higher Level of Service Inventory [LSI] score, younger age, requiring higher treatment intensity);
2. Begin serving a parolee population again if funding becomes available ("bang for buck" is greatest with higher risk offenders, and parolees are the highest risk group – when they do succeed, the savings to society are much greater than for lower risk offenders);
3. Maintain the high quality of supervision intensity and access to treatment;
4. Continue to implement strategies to increase time in treatment and likelihood of completion; and
5. Select probationers who have a drug conviction at their DORA-qualifying event if funding and slots are limited.

DORA HISTORY AND BACKGROUND

Approximately 75 to 80 percent of Utah's prison population has a drug abuse problem related to their criminal behavior. In an attempt to focus on the root cause of the crime, not the crime itself, the Utah Legislature approved the *Drug Offender Reform Act* (DORA). DORA began as a three year pilot program in 2005 but was expanded statewide in 2007 prior to the completion of the pilot study. DORA was intended to provide judges with substance abuse assessments and recommendations for appropriate treatment for those convicted of felonies. All felons were to be assessed. This was to allow for "smarter" sentencing and the ability to provide selected felony offenders with drug treatment and increased community supervision in order to reduce the costs associated with future criminal behavior. The purpose of the initial pilot program was to assess the impact and effectiveness of providing substance abuse screening, assessment, treatment services, and enhanced supervision to felony offenders. The pilot was a collaborative effort between treatment providers, Adult Probation and Parole, and judges. These three groups screen, assess, treat, supervise, and impose sentencing

according to the treatment needs of offenders with substance abuse problems. The goals of DORA are to promote public safety, decrease substance abuse and related crime and recidivism, and integrate treatment services with supervision.

HISTORY OF DORA FUNDING

The Legislature initially appropriated $1,418,000 to operate the DORA Pilot Program. When the DORA program was established in statute in 2007, the Legislature appropriated $8,000,000. For FY 2009, the DORA program was initially appropriated $9,000,000 with the majority of the funding being distributed to the Department of Human Services ($5.4 million) to provide treatment services and to the Department of Corrections ($3.4 million) for supervision of clients. As state revenues began to decline, the Legislature removed most of the ongoing funding for DORA, reducing the implementation to only six of the 13 local substance abuse authority areas in the state (four with both treatment and supervision funding and two with treatment funding only) and funded DORA for FY 2011 primarily with one-time funds totaling $3,000,000. The Division of Substance Abuse and Mental Health requested $1,960,400 ongoing funding to continue providing treatment for DORA participants in FY 2012 at FY 2011 levels. Without additional funding for FY 2012, DORA, as a state-funded program, would have ended on June 30, 2011. The Governor did not recommend continuation of the DORA program into FY 2012, but the Legislature appropriated a total of $2,979,000 in ongoing funding for the program, with $2,039,400 for the Division of Substance Abuse and Mental Health. The FY 2012 DORA appropriation was subsequently reduced to $2,927,500, when the Courts cut $51,500 DORA funding to address agency budget reductions. DORA funding history is demonstrated in the following table:

Drug Offender Reform Act (DORA) Appropriations History

Agency	FY 2008 Ongoing Gen. Fund	(A) FY 2009 Ongoing Gen. Fund	FY 2010 Ongoing Gen. Fund	FY 2010 One-time Gen. Fund	FY 2011 Ongoing Gen. Fund	FY 2011 One-time Gen. Fund	FY 2012 Gov. Rec. Ongoing Gen. Fund	FY 2012 Gov. Rec. One-time Gen. Fund	FY 2013 Gov. Rec. Ongoing Gen. Fund	FY 2013 Gov. Rec. One-time Gen. Fund
Comm. on Criminal and Juv. Justice	24,000	27,000	19,500	-	-	-	-	-	-	-
Department of Corrections	3,039,600	3,419,500	-	948,000	-	888,100	888,100	-	888,100	-
Div. of Substance Abuse and Mental Health	4,850,000	5,456,300	83,300	2,009,400	79,100	1,960,400	2,039,400	-	2,039,400	-
Administrative Office of the Courts	50,400	56,700	-	55,000	-	51,500	0 (B)	-	-	-
Board of Pardons and Parole	36,000	40,500	-	-	-	-	-	-	-	-
Subtotal	**8,000,000**	**9,000,000**	**102,800**	**3,012,400**	**79,100**	**2,900,000**	**2,927,500**	**-**	**2,927,500**	**-**
TOTAL OF ALL APPROPRIATIONS			$3,115,200		$2,979,100		$2,927,500		$2,927,500	

Source: Utah Substance Abuse Advisory Council
Note: In FY 2008 and FY 2009, not all funds appropriated were expended due to phasing the program in as well as budget reductions.
(A) - the Legislature initially appropriated $9,000,000 for the DORA program for FY 2009. Subsequently, the Legislature reduced this appropriation. These reductions are reflected in the FY 2010 appropriations shown above.
(B) - the Legislature initially appropriated $51,500 for the Courts for DORA in FY 2012, but the Courts reduced this funding as part of their budget cutbacks.

EFFECTIVENESS OF THE DORA PROGRAM

In its January 2009 audit of the DORA program, the Office of the Legislative Auditor General stated, "Ideally, program effectiveness should be judged over many years as data becomes available to know whether DORA participants are less likely to commit future crimes. However, early evidence does not demonstrate reduced criminal behavior. Therefore, it remains unknown whether the expected savings will be realized." As of the November 2011 evaluation update [*Drug Offender Reform Act: DORA Statewide Report,* Utah Criminal Justice Center, November 2011], most DORA participants had exited supervision, with 45 percent of probationers and 34 percent of parolees exiting successfully. The 2011 evaluation update report summarizes its key finding as:

- Treatment completers, both probation and parole, did significantly better than non-completers on post-DORA criminal justice outcomes.
- Key components of DORA (intensive supervision, treatment access, and completion) continue to be related to positive criminal justice outcomes.
- Treatment usage and successful completion rates are relatively flat, as the majority of DORA participants had exited (or were nearing supervision completion) at the 2010 report.

- Higher risk offenders (e.g., parolees vs. probationers, those with higher LSI scores, those requiring higher levels of treatment) continue to have worse outcomes.
- With longer follow-up periods and opportunities for re-offense, during-DORA and post-DORA recidivism (arrest and convictions) have increased for both probationers and parolees.
- When compared to a historical sample of offenders that would have qualified for DORA from Fiscal Years 2003-2007:
  - DORA probationer prison admissions remain slightly lower than the historical sample;
  - DORA parolee prison admissions remain slightly higher than the historical sample; and
  - There is no difference between the DORA and historical samples on new conviction rates.

CURRENT STATUS OF DORA

During its September 2008 Special Session and 2009 and 2010 General Sessions, the Legislature replaced most ongoing DORA funding with approximately $3,000,000 in one-time funding. During its 2012 General Session, the Legislature appropriated ongoing funding for DORA in the amount of $2,979,000, providing for treatment ($2,039,400 to the Division of Substance Abuse and Mental Health); supervision ($888,100 to the Department of Corrections); and $51,500 to the Courts that was subsequently eliminated to address agency budget reductions, leaving the FY 2012 appropriation for DORA at $2,927,500. When the reduced funding began in FY 2010, the Utah Substance Abuse Advisory Council approved a redesign proposal for DORA that continued into FY 2012 and includes the following elements:

1. Funding should provide for both rural and urban components.
2. Department of Corrections will provide 10 agents to supervise DORA clients only along the Wasatch Front.
3. Department of Human Services will issue two separate contract types to accommodate the fact that one contract includes a supervision component and one contract does not.
4. Maximum caseload to be carried by a DORA-specific Department of Corrections agent is 53 although 45 is optimal.
5. Current eligibility criteria will remain as presently being used with the exception that parolees will no longer be eligible for DORA-funded services.

As a result, the following areas were awarded contracts to provide DORA services for FY 2012: Salt Lake, Davis, Weber, and Utah counties as well as the Bear River and Southwest regions of the state. This can be viewed in the following table:

Drug Offender Reform Act (DORA) Allocation History

Local Authority Areas	FY 2010 Treatment Allocation	FY 2010 Treatment Slots Served	FY 2011 Treatment Allocation	FY 2011 Treatment Slots Served	FY 2012 Treatment Allocation	FY 2012 Treatment Slots Served	FY 2010 - 2012 DORA AP&P Agents
Bear River (Cache County)	$ 124,378	38	$ 121,216	37	$ 121,216	37	-
Weber County	$ 330,690	100	$ 322,286	98	$ 322,286	98	2
Salt Lake County	$ 909,679	276	$ 886,553	270	$ 886,553	270	4
Davis County	$ 249,479	76	$ 243,136	74	$ 243,136	74	2
Utah County	$ 292,587	89	$ 285,148	87	$ 285,148	87	2
Southwest (Washington and Iron counties)	$ 185,887	56	$ 181,161	55	$ 181,161	55	-
Total	**$ 2,092,700**	**635**	**$ 2,039,500**	**621**	**$ 2,039,500**	**621**	**10**

Source: Utah Substance Abuse Advisory Council

Note: AP&P agent information is subject to change during FY 2011 due to budget changes. Each DORA agent typically maintains a caseload of 53 individuals. As of this date, the Dept. of Corrections eliminated the 2 Davis AP&P agents due to insufficient funds.