

HCS HB 273 -- DRIVING WHILE INTOXICATED

SPONSOR: Roberts

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Crime and Public Safety by a vote of 19 to 0. Voted "Do Pass" by the Standing Committee on Rules-Administrative by a vote of 8 to 0.

The following is a summary of the House Committee Substitute for HB 273.

This bill establishes a criminal case diversion program specifically for cases involving driving while intoxicated. In such cases, the current diversion program available to prosecutors will not apply; instead, the provisions of this bill will apply. A defendant can request to be diverted to the program by submitting a request to the prosecuting or circuit attorney and sending a copy of the request to the Department of Revenue within 15 days of his or her arrest. A prosecutor can divert a criminal case involving driving while intoxicated if certain requirements, specified in the bill, are met. Such diversion can continue for up to two years, and the defendant can be ordered to comply with appropriate terms, conditions, or programs.

One such requirement is the installation of an ignition interlock device for a period of no less than 12 months on any vehicle the defendant operates, and the defendant will be prohibited from operating a vehicle that is not equipped with an ignition interlock device. The installer of the ignition interlock device must notify the Department of Revenue if the device is removed or indicates that a person has attempted to remove, bypass, or tamper with the device; if the person fails three or more times to comply with any requirement for the maintenance or calibration of the device; or if the device registers a failed start. If the person has a failed start within the last 90 days of the required period of installation of the device, the term will be extended for 90 days.

If the defendant complies with the terms and conditions of the diversion program, the action against the defendant will be dismissed, the dismissal will be recorded, and the record will be transmitted to the Department of Revenue. If the defendant does not comply with the terms and conditions, a hearing will be held after notice to the defendant to determine whether the criminal proceedings will be reinstated. Any defendant found guilty of an intoxication-related traffic offense who has previously utilized the DWI diversion program will be considered a prior offender as defined in Section 577.001, RSMo, if the prior offense occurred within five years of the intoxication-related offense for which the

person is charged. Finally, for the limited purpose of determining whether a defendant is a chronic, habitual, persistent, or prior offender under Section 577.001, a criminal case diverted to a DWI diversion program will be counted as one intoxication-related traffic offense.

This bill is similar to HB 1654 (2024).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that this allows a defendant charged with a driving while intoxicated (DWI) offense to go to a diversion program, which would take the person out of the criminal justice system. It is a permissive program, and the defendant would have to meet certain criteria to qualify for the program. If the defendant completes the program, the court must dismiss the criminal charge; however, this will count as a prior offense for any subsequent DWI charge. There are approximately 25,000 DWI arrests in Missouri every year. About 10,000 will go through the process and never re-offend. However, about 5,000 will re-offend, which means 5,000 potential victims. Normally, Mothers Against Drunk Driving is not supportive of diversion programs, but this one comes with an ignition interlock requirement, so this along with the education requirement should reduce recidivism. They want to ensure first time offenders who don't injure someone have the opportunity to improve their lives without a record following them and without the increase in insurance. This is a consistent pathway through the state to allow this offense to no longer be on your record but if you re-offend in a 5-year period, it'll go on your record. Suspending drivers' licenses does not work and there have been three decades' worth of studies showing the efficacy of ignition interlock devices.

Testifying in person for the bill were Representative Roberts; Mothers Against Drunk Driving (MADD); Debra Coffey, Safety and Advocacy for Empowerment (SAFE); and SAFE.

OPPONENTS: Those who oppose the bill say that prosecutors already have a great deal of discretion, and they are allowed to handle cases as they see fit. This has Constitutional issues because, even if you don't plead guilty, this will be counted against you for a subsequent offense.

Testifying in person against the bill were Brian Bernskoetter, Missouri Association of Criminal Defense Attorneys; and Arnie Dienoff.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.