

# HOUSE BILL REPORT

## 2SHB 3089

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### As Amended by the Senate

**Title:** An act relating to drunk driving.

**Brief Description:** Limiting eligibility for the deferred prosecution program to once in a lifetime.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives McDonald, Sheahan, Kessler, Bush, Robertson and Boldt).

**Brief History:**

**Committee Activity:**

Law & Justice: 2/3/98, 2/5/98 [DPS];  
Appropriations: 2/7/98 [DP2S(w/o sub LJ)].

**Floor Activity:**

Passed House: 2/13/98, 96-0.  
Senate Amended.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Mulliken; Robertson and Sherstad.

**Staff:** Bill Perry (786-7123).

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Law & Justice. Signed by 30 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

**Staff:** Dave Johnson (786-7154).

**Background:** Any person charged with a non-felony offense in district court may petition for what's called a "deferred prosecution." DUI is the offense for which a deferred prosecution is most often sought. In order to qualify for a deferred prosecution, a person must allege that the charged criminal conduct resulted from the person's alcoholism or drug addiction, that the conduct is likely to recur if the alcoholism or addiction is not treated, and that the alcoholism or addiction is in fact amenable to treatment. Among other things, the applicant must also acknowledge in writing that he or she waives the right to testify, to call witnesses, to have a speedy trial, or to have a jury. The applicant must also stipulate to the admissibility of the evidence contained in the police report.

If a person is granted a deferred prosecution and successfully completes a court-ordered, two-year treatment program, the court will dismiss the charges. Conviction for another offense during the two-year program results in judgment being entered on the deferred charge.

A person charged with an offense under the motor vehicle code is not eligible for a deferred prosecution more than once in a five-year period.

**Summary of Bill:** No person charged with a violation of the motor vehicle code is eligible for a deferred prosecution program more than once. Commission (rather than conviction) of another offense during the two-year program results in entry of judgment on the deferred charge. The court may not dismiss the deferred charge until three years after proof of completion of the two-year treatment program.

**EFFECT OF SENATE AMENDMENT(S):** The Senate amendment makes two changes. First, it delays the effective date of the act until January 1, 1999. Second, it adds a provision stating that local governments may submit claims for reimbursement from the state for the costs associated with implementing the act.

**Appropriation:** None.

**Fiscal Note:** Requested on February 8, 1998.

**Effective Date:** Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

**Testimony For:** (Law & Justice) One deferred prosecution is enough. Multiple offenders abuse the system.

(Appropriations) None.

**Testimony Against:** (Law & Justice) None.

(Appropriations) None.

**Testified:** (Law & Justice) Conrad Thompson, Everett District Probation Court (pro); Russ Hauge, Washington Association of Prosecuting Attorneys (pro); and Annette Sandberg, Washington State Patrol (pro).

(Appropriations) None.