

# HOUSE BILL REPORT

## HB 3089

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### As Reported By House Committee On:

Law & Justice  
Appropriations

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

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

**Sponsors:** 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)].

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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).

**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 Substitute 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.

**Substitute Bill Compared to Original Bill:** The original bill contains only the removal of the once-in-five-years provision.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** One deferred prosecution is enough. Multiple offenders abuse the system.

**Testimony Against:** None.

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

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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).

**Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Law & Justice:** A new section was added which makes the bill null and void unless specific funding is provided in the Omnibus Appropriations Act by June 30, 1998.

**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:** None.

**Testimony Against:** None.

**Testified:** None.