

# HOUSE BILL ANALYSIS

## HB 3070

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**Title:** An act relating to penalties for driving under the influence.

**Brief Description:** Increasing penalties for drunk driving.

**Sponsors:** Representatives McCune and Mulliken.

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### HOUSE COMMITTEE ON LAW & JUSTICE

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

**Background:** The driving under the influence (DUI) law has a variety of criminal and civil penalty provisions. These penalties escalate on the basis of repeat offenses and on the basis of the offender's blood or breath alcohol concentration (BAC). For purposes of counting "prior" DUIs, there is a five-year washout period. "Prior" offenses for purposes of these escalating penalties include: DUI; DUI-related vehicular homicide or assault; and negligent driving, if the conviction is the result of a charge originally filed as a DUI or vehicular homicide or assault. "Prior offenses" also include deferred prosecutions on DUI or DUI-related charges.

The implied consent law, the DUI vehicle forfeiture law, the occupational license law, and the deferred prosecution law also have provisions based on a five-year washout period for counting prior offenses.

The Department of Licensing (DOL) is required to keep DUI records for at least 10 years.

Vehicular homicide is a class A felony. It involves causing the death of another while driving either under the influence or while driving recklessly or with disregard for the safety of others. Under the Sentencing Reform Act (SRA), vehicular homicide is a level VII offense if committed while driving with disregard, a level VIII offense if committed while driving recklessly, and a level IX offense if committed while driving under the influence. The mid-point of the presumptive sentence range for a first-time offender for a level IX offense is three years in prison. The presumptive sentence range increases with the offender's criminal history. Various rules apply in determining an offender's criminal history score. Whether or not a prior conviction counts depends on the nature of the prior offense, the nature of the current offense, and the number of years since the prior conviction. As a class A felony, vehicular homicide never washes out of an offender's criminal history. If an offender's current

crime is a felony traffic offense, such as vehicular homicide, then a prior vehicular homicide counts double in determining the offender score. Also, if the current offense is a felony traffic offense, some non-felony prior traffic offenses count as well. These non-felony priors are called "serious traffic offenses" and include: DUI, reckless driving, and hit-and-run involving an attended vehicle. Under the SRA, serious traffic offenses have a five-year washout period.

**Summary of Bill:** All of the DUI-related, five-year washout periods are eliminated, except for the periods applicable to deferred prosecutions, and to serious traffic offenses under the SRA. The DOL is required to keep DUI-related records permanently.

If a person is convicted of a DUI-related vehicular homicide, two years are added to the presumptive sentence range for each prior conviction for a prior offense as defined by the DUI law. Those prior offenses include: DUI; DUI-related vehicular homicide or assault; and negligent driving, if the conviction is the result of a charge originally filed as a DUI, or vehicular homicide or assault. "Prior offenses" also include deferred prosecutions on DUI or DUI-related charges.

**Fiscal Note:** Not requested.

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

Office of Program Research