

HOUSE BILL ANALYSIS

HB 2612

Title: An act relating to clarifying when a defendant must appear.

Brief Description: Clarifying when a defendant must appear.

Sponsors: Representatives McDonald, Constantine and Hurst.

Brief Summary of Bill

- Clarifying language regarding the time period following a DUI incident during which a defendant must make the first appearance in court.

HOUSE COMMITTEE ON JUDICIARY

Staff: Bill Perry (786-7123).

Background:

As part of extensive revisions to the state's drunk driving laws in 1998, the Legislature required that within one judicial day after an arrest for DUI, the defendant must be brought before a magistrate. The purpose of the appearance is to consider the need to impose conditions on pretrial release. Concern had been expressed that the failure to have a prompt appearance was resulting in problem drivers being released without restrictions on their driving pending trial.

Following the enactment of this prompt appearance requirement, however, some local jurisdictions expressed concern that it was difficult to comply with.

As a result of those concerns, an amendment to the appearance requirement was passed in 1999. Under that change, a local court may waive the requirement that a DUI defendant appear before a judge within one judicial day of arrest. The local waiver must provide for appearance of the defendant at the earliest practicable day as defined by local court rule.

Under the current law, every person "arrested" for DUI who is served with a citation or complaint at the time of arrest is to appear before a "magistrate," while a person who is "charged" with DUI but is not arrested is to appear within 14 days of the issuance of a citation or the filing of a complaint.

The method of charging DUI following an arrest may vary from jurisdiction to jurisdiction. Some jurisdictions may require all charging to be done by the prosecutor's office following a review of the case presented by the arresting law enforcement agency. Other jurisdictions do not require this procedure.

A "magistrate" is any judge or "municipal officer with the power of a district court judge." A "judicial officer" is a person authorized to act as a judge.

Summary of Bill:

Language in the law requiring prompt court appearance in DUI cases is clarified. Every person "charged" with DUI who is served with a citation or complaint at the time of arrest must appear before a judicial officer within one judicial day. Every person who is "charged" with DUI but is not served with a citation or complaint at the time of the incident must appear within 14 days.

Fiscal Note: Not requested.

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

Office of Program Research