

# HOUSE BILL REPORT

## SSB 5396

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### As Passed House:

April 14, 2003

**Title:** An act relating to court-imposed conditions of deferred prosecutions.

**Brief Description:** Enforcing conditions in deferred prosecutions.

**Sponsors:** By Senate Committee on Judiciary (originally sponsored by Senators McCaslin, Deccio, Thibaudeau, Eide and Brandland).

### Brief History:

#### Committee Activity:

Judiciary: 3/20/03, 3/25/03 [DP].

#### Floor Activity:

Passed House: 4/14/03, 93-0.

### Brief Summary of Substitute Bill

- Requires proof of compliance with court imposed conditions, in addition to proof of successful completion of a treatment program, before charges may be dropped after a deferred prosecution.

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## HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass. Signed by 9 members: Representatives Lantz, Chair; Moeller, Vice Chair; Carrell, Ranking Minority Member; McMahan, Assistant Ranking Minority Member; Campbell, Flannigan, Kirby, Lovick and Newhouse.

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

### Background:

A person charged with any misdemeanor or gross misdemeanor offense in district court may be eligible for deferred prosecution. In order to be eligible, a person charged with an offense (other than certain offenses related to criminal mistreatment) must:

- Allege that alcoholism, drug addiction, or mental problems caused the person to commit the offense;

- Allege that treatment is necessary to prevent a reoccurrence;
- Agree to pay for the expenses of diagnosis and treatment;
- Stipulate to the admissibility and sufficiency of the facts in the police report;
- Acknowledge the admissibility of the stipulated facts in any trial on the charged offense; and
- Waive the right to testify, to have a speedy trial, to call witnesses, to present evidence, or to have a jury trial.

If the court grants a deferred prosecution the person will be ordered to undergo treatment in a two-year program. For persons charged with driving while under the influence, a deferred prosecution may also require the installation of an ignition interlock on any vehicle the person will be operating.

If a person fails to successfully complete the treatment program, or fails to comply with an order regarding an ignition interlock, the court is to remove the person from the deferred prosecution and enter judgment on the charge.

If the person does successfully complete the program, three years after the successful completion, the court is to dismiss the charges.

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**Summary of Bill:**

Courts are authorized to impose additional requirements and restrictions on persons who are granted a deferred prosecution. A court may order reasonable conditions, including but not limited to:

- Attendance at self-help groups;
- Complete abstinence from alcohol and drugs;
- Periodic urinalysis or breath analysis; and
- Maintenance of law abiding behavior.

In order to have the pending charges dismissed, the person must show proof not only that he or she has successfully completed the required two-year treatment program, but also that he or she has complied with any other conditions imposed by the court.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** The bill clarifies the court's authority to impose conditions during the entire five-year period of a deferred prosecution. Most courts have assumed this is already the case, but a few have ruled that additional conditions can be imposed only during the two-year treatment program.

**Testimony Against:** None.

**Testified:** Brett Buckley, Washington State District and Municipal Judges Association.