

# SENATE BILL REPORT

## SB 5396

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As Reported By Senate Committee On:  
Judiciary, February 7, 2003

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

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

**Sponsors:** Senators McCaslin, Deccio, Thibaudeau, Eide and Brandland.

**Brief History:**

**Committee Activity:** Judiciary: 2/5/03, 2/7/03 [DPS].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 5396 be substituted therefor, and the substitute bill do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Hargrove, Johnson, Kline, Roach and Thibaudeau.

**Staff:** Lidia Mori (786-7755)

**Background:** A person who is charged with the gross misdemeanor offense of driving under the influence of alcohol or any drug (DUI) may petition the court to be considered for a deferred prosecution program. The petitioner must allege under oath that the wrongful conduct charged is the result of or caused by alcoholism or drug addiction for which the person is in need of treatment and, unless treated, will likely reoffend. The petition must also contain a case history and a written assessment prepared by an approved alcoholism or drug treatment program. As a condition of granting the deferred prosecution, the court will order that the petitioner not operate a motor vehicle without a valid operator's license and proof of liability insurance. The court will also order installation of an ignition interlock device if the person has previously been convicted of a DUI, the DUI presently charged involves an alcohol concentration of .15 or greater, or the person refused to take the test so no measure of the alcohol concentration is available. The court may also order the petitioner to make restitution and pay costs.

**Summary of Substitute Bill:** During the period of a deferred prosecution, the court may order reasonable conditions including, but not limited to, attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintenance of law-abiding behavior.

A court may dismiss the charges pending against a petitioner who has successfully completed the two-year treatment program of a deferred prosecution and has complied with the conditions imposed by the court.

**Substitute Bill Compared to Original Bill:** A court may order reasonable conditions during the period of a deferred prosecution including maintaining law-abiding behavior. The original bill did not include the ability to order the petitioner to maintain law-abiding behavior.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** A recent ruling held that a judge cannot impose conditions in a deferred prosecution beyond the two-year treatment period. In addition to conditions related directly to alcohol, it would be beneficial if a judge could also order that the petitioner maintain general law abiding behavior.

**Testimony Against:** None.

**Testified:** Pete Youngers, Mothers Against Drunk Driving; Judge Glenn Phillips, District and Municipal Court Judges Association.