
Judiciary Committee

HB 1167

Title: An act relating to driving or being in physical control of a motor vehicle while under the influence of alcohol or drugs.

Brief Description: Expanding provisions relating to driving or being in physical control of a motor vehicle while under the influence of alcohol or drugs.

Sponsors: Representatives Lias, Goodman, Probst, Rolfes, Moscoso, Roberts, Fitzgibbon, Billig, Miloscia and Maxwell.

Brief Summary of Bill

- Explicitly authorizes courts to establish DUI courts.
- Increases the fee imposed on persons convicted of DUI, vehicular homicide, or vehicular assault.
- Requires courts to establish victim impact panel registries and creates minimum standards for victim impact panels.

Hearing Date: 2/14/11

Staff: Trudes Tango (786-7384).

Background:

Specialty Courts.

Superior courts may establish specialty, or therapeutic courts within the superior court. For example, some courts have established drug courts and mental health courts. At least five counties have DUI courts.

DUI Victim Impact Panels.

A person convicted of DUI is subject to monetary penalties, mandatory jail time and the suspension of the person's driver's license. In addition, a person convicted of DUI, or granted a deferred prosecution on a DUI charge, may be ordered to attend an educational program that

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focuses on "the emotional, physical, and financial suffering of victims injured by persons convicted of DUI." There is nothing in statute that requires victim impact panels to be conducted by certain entities or organizations. Some courts, such as King County District Court, have adopted minimum standards for victim impact panels.

Alcohol Assessments.

Generally, persons convicted of DUI must undergo court-ordered alcohol assessment. A diagnostic evaluation and treatment recommendation must be prepared under the direction of the court. The statute does not require that a copy of the report be sent to the court.

Fees Imposed on Offenders.

A fee of \$125 is imposed on persons convicted, sentenced to a lesser charge, or given a deferred prosecution, as a result of an arrest for DUI, vehicular homicide, or vehicular assault. The stated purpose of the fee is to fund the state toxicology laboratory and the Washington state patrol for grants and activities to increase the conviction rate and decrease the number of DUIs. The court may suspend all or part of the fee if it finds, upon a verified petition by the offender, that the offender is not able to pay.

The clerk of the court collects the fee and distributes it as follows:

- 40 percent of the fee is distributed between the state and city or county government, based on existing statutes that split up the noninterest portion of fees collected by courts of limited jurisdiction and superior courts;
- 60 percent of the fee is forwarded to the state treasurer to be deposited in the following ways: (a) 15 percent in the death investigations account to fund the state toxicology lab's BAC testing programs; and (b) 85 percent in the state patrol highway account to fund activities to increase the conviction rate and decrease the incidences of DUI.

Summary of Bill:

DUI courts.

Counties may establish and operate DUI courts for nonviolent offenders. A jurisdiction that seeks state funds for a DUI court must first exhaust all federal funding that is available to support a DUI court and provide a dollar-for-dollar match of state moneys. State money must be used to supplement, not supplant, other funds. DUI courts already in existence as of January 1, 2011, are not required to match state funds until June 30, 2014.

DUI courts established under the bill must have minimum requirements for participation of offenders. The minimum requirements must include that:

- the offender would benefit from alcohol treatment;
- the offender has not previously been convicted of a serious violent offense or sex offense, vehicular homicide, vehicular assault, or an equivalent out-of-state offense; and
- the offender is not currently charged with certain enumerated offenses, or an offense during which the defendant used a firearm, or an offense during which the defendant caused substantial or great bodily harm or death to another person.

Victim Impact Panels (VIP).

Each court administration must develop and maintain a registry of qualified VIPs. Municipal, district, and superior courts may coordinate efforts to develop and maintain a registry for their

judicial district. When a court requires an offender to attend a victim impact panel, the court must refer the offender to a VIP listed on the registry.

To be listed on a court's registry, the VIP must:

- address the effects of driving while impaired and address alternatives to drinking and driving;
- have at least two different speakers who are victim survivors and who were not the cause of the crash. The victim survivors must present their stories in person and be provided at least 60 minutes to present;
- have policies and procedures to recruit, screen, train, and provide feedback and support to the panelists;
- charge a reasonable fee to persons required to attend, unless ordered otherwise by the court;
- have a policy to prohibit admittance of anyone under the influence or anyone whose actions or behavior are inappropriate;
- maintain attendance records for at least five years;
- make reasonable efforts to use a facility that meets standards established by the Americans with Disabilities Act;
- provide referral information to other community services; and
- have a designated facilitator responsible for communicating with the courts and probation departments regarding attendance and responsible for compliance with the minimum standards.

Any person who reasonably believes that a VIP fails to meet the minimum standards may submit a complaint to the court in writing. The court may develop procedures to review complaints and remove a VIP from the registry.

Fees imposed on offenders.

The \$125 fee imposed on certain offenders is increased to \$200. Of the total amount, \$175 must be distributed in the same manner and in the same percentages as the current fee is distributed. The remaining \$25 of the fee must be distributed to the Washington State Patrol Highway account to be used solely for funding Washington Traffic Safety Commission grants to reduce statewide collisions caused by DUI.

Grants awarded may be for projects that encourage collaboration with other community, governmental, and private organizations, and that use innovative approaches based on best practices or proven strategies. Grant recipients may include DUI courts and jurisdictions implementing victim impact panel registries.

Alcohol assessment report.

A copy of the offender's diagnostic evaluation and treatment report must be forwarded to the court.

Appropriation: None.

Fiscal Note: Available.

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