
Judiciary Committee

HB 2130

Title: An act relating to providing a means to determine "prior offenses" to implement chapter 73, Laws of 2006, regarding driving under the influence.

Brief Description: Providing a means to determine "prior offenses" to implement chapter 73, Laws of 2006, regarding driving under the influence.

Sponsors: Representatives Goodman, Lantz, Moeller and Rodne.

Brief Summary of Bill

- Defines the term "within ten years" for the purposes of determining prior offenses under the felony DUI law.
- Requires that the defendant's fingerprints be affixed to the judgement and sentence when the defendant is convicted of DUI.

Hearing Date: 2/23/07

Staff: Trudes Tango (786-7384).

Background:

A person can commit driving under the influence of intoxicating liquor or any drug (DUI) in two ways:

- if the person drives and has, within two hours of driving, a blood or breath alcohol concentration of .08 or higher (per se violation); or
- if the person drives and is under the influence of or affected by intoxicating liquor, any drug, or both (actual impairment).

Until July 1, 2007, all DUI convictions are gross misdemeanors, regardless of the defendant's number of prior convictions. The misdemeanor DUI laws contain a complex system of mandatory minimum penalties that escalate based on the number of prior offenses within seven years the offender has and the offender's blood or breath alcohol concentration for the current offense.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A prior offense is "within seven years" if the arrest for a prior offense occurred within seven years of the arrest for the current offense. By contrast, under felony sentencing laws, the corresponding time period is generally from the end of the person's confinement for a prior crime to the commission of the new crime.

"Prior offenses" include convictions for: (a) DUI; (b) vehicular homicide and vehicular assault if either was committed while under the influence; (c) negligent driving after having consumed alcohol ("wet neg"), reckless driving, and reckless endangerment, if the original charge was DUI, vehicular homicide, or vehicular assault; and (d) an equivalent local DUI ordinance or out-of-state DUI law. In addition, a deferred prosecution for DUI or "wet neg" counts as a prior offense even if the charges are dropped after successful completion of the deferred prosecution program.

In 2006, the Legislature passed a law that makes DUI a class C felony if the person has four or more "prior offenses within ten years." The law, which takes effect July 1, 2007, does not define "within ten years."

Recently, the Washington Traffic Safety Commission commissioned an examination of Washington's DUI laws. The report, issued in October 2006, noted that due to the absence of fingerprint-based records for non-felony convictions, prosecutors may have difficulty proving that the defendant charged under felony DUI is the same person who was convicted of the prerequisite prior offenses.

Law enforcement agencies fingerprint persons arrested for gross misdemeanors if the person is booked and taken into custody. Many persons arrested for DUI are cited and released and not taken into custody.

Under current law, every judgment and sentence of a felony conviction must have affixed to it the defendant's fingerprint. The court may request that the actual affixing of fingerprints be done by a representative of the county sheriff's office.

Summary of Bill:

For the purposes of determining prior offenses under the felony DUI law, the term "within ten years" means that the arrest for a prior offense occurred within ten years of the arrest for the current offense.

A defendant's fingerprints must be affixed to the judgement and sentence when the defendant is convicted of DUI.

Appropriation: None.

Fiscal Note: Available.

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