

HOUSE BILL REPORT

HB 1601

As Reported by House Committee On:

Public Safety
Appropriations

Title: An act relating to providing alternatives for penalties stemming from traffic infractions.

Brief Description: Providing alternatives for penalties stemming from traffic infractions.

Sponsors: Representatives Goodman, Pettigrew, Moscoso, Habib, Pedersen, Jinkins, Roberts, Orwall, Appleton, Upthegrove, Pollet, Freeman and Ryu.

Brief History:

Committee Activity:

Public Safety: 2/13/13, 2/21/13 [DPS];

Appropriations: 2/28/13 [DPS(PS)].

Brief Summary of Substitute Bill

- Allows a person to pay a monetary penalty imposed for a traffic infraction through either a payment plan or a community restitution plan, if the court determines that the person is not able to pay the monetary penalty without undue hardship.
- Requires the court to waive, reduce, or suspend any monetary penalty related to traffic infractions if the court finds the person indigent and allows the court to order a payment plan or a community restitution plan in lieu of the penalty, if the person requests.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Moscoso, Pettigrew and Takko.

Minority Report: Do not pass. Signed by 2 members: Representatives Hope and Ross.

Staff: Sarah Koster (786-7303).

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.

Background:

A notice of a traffic infraction is a determination that a person has committed the traffic infraction, and the determination is final unless the person contests the infraction. A person who receives a notice of a traffic infraction may either pay the fine or request a hearing to contest the notice. If the person fails to pay the fine or fails to appear at a requested hearing, the court will enter an order assessing the monetary penalty for the traffic infraction.

A form for a notice of a traffic infraction must include a statement that the person may be able to enter into a payment plan with the court.

If a court determines, in its discretion, that a person is unable to pay immediately, the court must enter into a payment plan with the person if less than a year has passed since the infraction became due. If the person has previously been granted a payment plan for the same fine or if the person is in noncompliance with any previous or existing payment plan, the court has the discretion to enter into a payment plan with the person.

If a court administers a payment plan, the fee for the plan may not be more than the lesser of \$10 per infraction or \$25 per payment plan. A court may contract with outside entities to administer the payment plan.

If a person fails to comply with the payment plan for a moving violation, the court must notify the Department of Licensing (DOL), and the DOL must suspend the person's driver's license.

If a community restitution program is available in the jurisdiction, the court may substitute community restitution for all or part of the amount due for the fine. Additionally, the court may, in its discretion, waive, reduce, or suspend the fine prescribed for the infraction.

Summary of Substitute Bill:

"Community restitution" means the performance of a number of hours of community service in lieu of all or part of a monetary penalty, at the rate of the state minimum wage per hour.

If a community restitution plan is available to persons assessed penalties for traffic infractions and the court determines, in its discretion, that a person is unable to pay an imposed penalty for a traffic infraction in full without undue hardship, the court must, upon request of the person, enter into a payment plan or a community restitution plan with the person if less than a year has passed since the infraction became due. If the person has previously been granted a payment or community restitution plan for the same fine or if the person is in noncompliance with any previous or existing payment or community restitution plan, the court may, in its discretion, enter into a payment or community restitution plan with the person. The court must allow community restitution in lieu of all or part of the monetary obligations due, if the person is unable to make reasonable time payments without undue hardship.

Additionally, a court must waive, reduce, or suspend the monetary penalty prescribed for the infraction if the court finds the person indigent.

If the court has notified the DOL that the person has failed to pay or comply and the person later begins to comply with a payment plan or community restitution plan, the court must timely notify the DOL, and the DOL must immediately rescind any suspension.

A form for a notice of a traffic infraction must include a statement that the person shall be able to request entry into a payment plan or community restitution plan with the court and must indicate that the penalty for a traffic infraction may include nonrenewal of a vehicle registration, rather than the vehicle license.

Substitute Bill Compared to Original Bill:

The substitute bill removes the requirement that jurisdictions make a community restitution plan available.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect on June 1, 2013.

Staff Summary of Public Testimony:

(In support) This stems from caseload limits on public defenders. Driving with License Suspended 3 is a large part of criminal defense caseloads and this is a problem stemming from indigence. Driving with License Suspended 3, the offense which results if you are stopped driving with your license suspended, is also called "driving while poor." This is the most heavily prosecuted offense in Washington. This bill would provide a way for people to pay their obligations initially and avoid Driving with License Suspended. This will increase the percentage of these infractions which are satisfied. The ability to do this should not depend on whether or not you live in a jurisdiction which has a community restitution plan. This bill prevents people from crossing the line from infraction into crime. Sometimes hopelessness prevents people from showing up and they spiral from Driving with License Suspended into criminal behavior. This is a particularly huge problem in rural areas, where people cannot get around without driving, even if they have a suspended license.

(Information only) When someone is ordered to complete community service and does not do it, it gets turned into a monetary penalty and goes to collection. There is no new criminal infraction which results.

(Opposed) This creates a mandate: that courts would have to provide a community restitution plan. Many courts offer some kind of community service or work crews and they can be an effective alternative, but not every jurisdiction offers that. For some, it may not be

the most feasible approach. Also, this comes on the heels of legislation that was enacted last year, which has not had a chance to be implemented yet. The Legislature should decide if this offense should be criminalized or not, rather than create more deferral programs. It is problematic that just because one court is able to do something above their constitutional minimum that it should become the new standard statewide. In the future, there may be resistance to courts trying new things, if it will then be imposed across the state. Driving with License Suspended makes up one-third of the cases, but not one-third of the workload. This is not a workable mechanism to address the issues raised by the caseload rules.

Persons Testifying: (In support) Representative Goodman, prime sponsor; Bob Cooper, Washington Defender Association and Washington Association of Criminal Defense Lawyers; Sophia Byrd McSherry, Office of Public Defense; Karin Campbell, Northwest Justice Project; and Arthur West.

(Information only) Sam Meyer, District and Municipal Court Judges Association.

(Opposed) Candice Bock, Association of Washington Cities; and Brian Enslow, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Public Safety be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Alexander, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Carlyle, Cody, Dahlquist, Dunshee, Fagan, Green, Haigh, Haler, Harris, Hudgins, Hunt, Jinkins, Kagi, Maxwell, Morrell, Parker, Pedersen, Pettigrew, Pike, Ross, Schmick, Seaquist, Springer and Sullivan.

Minority Report: Do not pass. Signed by 2 members: Representatives Chandler, Assistant Ranking Minority Member; Taylor.

Staff: Alex MacBain (786-7288).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Public Safety:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect June 1, 2013.

Staff Summary of Public Testimony:

(In support) If someone does not pay a traffic infraction, their license is suspended and because they have to go to work, they will be cited for Driving with License Suspended in the third degree (DWLS3). If they cannot pay for that citation, it spirals downward economically from there. These fines are not being collected now; these are people who are unable to pay. The fiscal note fails to account for savings with the Department of Licensing when they do not have to suspend licenses or the saving of the criminal justice system for avoiding these DWLS3 prosecutions. DWLS3 prosecutions constitute 40 percent of prosecutions in the state. The note also incorrectly assumes a cost to reprint traffic tickets, when the bill explicitly does not require this. This bill allows individuals to satisfy civil obligations to the best of their ability. If they cannot satisfy, it holds them accountable in a much more reasonable way. The goal of the civil infraction system should not be to generate revenue for local jurisdictions. Indigent means unable to meet basic needs. Because judges say that some fines cannot be waived, some monetary penalty will still be imposed. A reduction to a fine can be a minor reduction, but it can make the fine more appropriate to that person's financial circumstances.

(Opposed) None.

Persons Testifying: Bob Cooper, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: None.