

HOUSE BILL REPORT

HB 1200

As Reported by House Committee On:

Judiciary
Appropriations

Title: An act relating to standardized chemical dependency assessment protocols.

Brief Description: Establishing standardized chemical dependency assessment protocols.

Sponsors: Representatives Pearson, O'Brien, Lovick, Kristiansen, Rodne, McDonald, Walsh, Ahern, Buri, Strow, Holmquist, Condotta and Hinkle.

Brief History:

Committee Activity:

Judiciary: 2/4/05, 3/2/05 [DPS];

Appropriations: 2/1/06, 2/2/06 [DPS(JUDI)].

Brief Summary of Substitute Bill

- Provides uniform standards for assessments of the alcohol or drug dependency of persons charged or convicted for driving while under the influence.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Lantz, Chair; Williams, Vice Chair; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Campbell, Serben, Springer and Wood.

Minority Report: Do not pass. Signed by 1 member: Representative Kirby.

Staff: Bill Perry (786-7123).

Background:

As part of his or her sentence, a person convicted of driving while under the influence of intoxicating liquor or any drug (DUI) is required to undergo "alcohol assessment and treatment." The treatment consists of completing an alcohol information course approved by the Department of Social and Health Services (DSHS) or completing a more intensive treatment program approved by the DSHS, as determined by the sentencing court. In order to determine which option is to be used, the court is required to direct the preparation of a diagnostic evaluation and treatment recommendation. This recommendation is to be done by a

DSHS-approved alcoholism agency or by a court's own DSHS-approved probation department. The DSHS is responsible for setting standards for alcohol treatment programs.

If a person has been arrested for DUI, he or she may petition a court for a deferred prosecution as long as he or she has not previously been granted a deferral. If the petition is granted, the person's prosecution is deferred pending his or her successful completion of alcohol or drug treatment. In order to get a deferral, the petitioner must demonstrate to the satisfaction of the court that, among other things, his or her DUI was the result of alcoholism or drug addiction. The petition must contain a "case history and written assessment" that has been prepared by a DSHS-approved alcoholism or drug program.

Although these statutes require the DSHS to set standards for treatment programs, they do not provide for or require standardized assessment procedures.

Summary of Substitute Bill:

Requirements are established for alcohol and drug dependency assessments that are done on a person who has been convicted of DUI or who has been charged with DUI and is petitioning for a deferred prosecution. Such an assessment must be done by a chemical dependency professional or supervised trainee who is qualified under rules of the Department of Health (DOH) or by a probation assessment officer qualified under the rules of the DSHS.

An assessment must include:

- an evaluation of available information from the arrest regarding the person's alcohol and drug levels;
- an evaluation of the person's self-reported driving record as compared to official driving records, including specifically all alcohol-related driving offenses;
- the person's release of criminal history information, if the initial finding is other than substance dependence;
- the police report from the person's arrest; and
- a drug screen urinalysis, if the initial finding is other than substance dependence.

A required standardized form for a chemical dependency assessment summary is provided.

Substitute Bill Compared to Original Bill:

The substitute bill:

- removes specific details about conducting an assessment from the list of requirements that an assessment must include, but retains data collection requirements relating to: alcohol and drug levels at the time of arrest; self-reported and official driving records; criminal history; police reports; and drug screen urinalysis;
- clarifies that the bill applies only to persons who have been convicted of DUI or who are applying for a deferred prosecution after having been charged with DUI, rather than applying to everyone who is arrested for DUI;

- removes citations to specific administrative code sections, and refers instead to the rulemaking authority of the DSHS and the DOH under the statutes;
- changes the term "youth" to "minor;" and
- removes the findings and intent section.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (Original bill) The bill will have a great positive impact on public safety. It will be among the most important DUI legislation in the last 30 years. The establishment of a protocol that includes the requirement for a urinalysis will increase the accuracy of assessments and reduce the number of assessments that have to be redone. Some assessment facilities do use this protocol, including requiring urinalysis, and offenders now often go shopping for facilities that don't. Requiring a urinalysis is key to improving assessments. The protocol also requires a comparison of an offender's self-reported history with the official records, which is an important tool for uncovering an offender's problems. The protocol works well where it is used now, and its uniform use statewide will be a low-cost, efficient way to improve public safety and save lives.

Testimony Against: (Original bill) Diagnostic procedures should not be placed in statute. Best practices need to evolve, and putting them in law keeps them from adapting to changing circumstances. Drug screens by urinalysis often miss alcohol problems. The bill would impose additional costs on assessments. The bill fails to bridge the gap between probation departments who view persons in the system as "offenders" and treatment providers who view the same persons as "patients."

Persons Testifying: (In support of original bill) Representative Pearson, prime sponsor; Conrad Thompson, Misdemeanor Corrections Association of Washington; Greg Bauer, Alpine Recovery Services; Kevin Grandy, Kitsap County District Court Probation; Tom Ripley, Probation Officer in Kitsap County; Rubin Romero, Advantages Counseling; Tom Liddle, Island Assessment and Counseling Center; and Melody Dady, Advantages Counseling.

(Opposed to original bill) Scott Munson, Sundown Ranch and the Association of Alcoholism and Addiction Programs.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill do pass. Signed by 30 members: Representatives Sommers, Chair;

Fromhold, Vice Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Chandler, Clements, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, Miloscia, Pearson, Priest, Schual-Berke, P. Sullivan, Talcott and Walsh.

Staff: Amy Skei (786-7140).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Judiciary:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: These protocols represent best practice for chemical dependency assessment. The costs of urinalysis test are cheaper than the cost of recidivism or of not treating people at the right level of care. The fiscal note estimate is too high; urinalysis tests cost about \$6 each. People can get their own criminal history report for free, and it could be their responsibility to bring this to the assessment. There are also inexpensive subscription databases with this information. Individuals don't necessarily fully disclose on their own when being assessed. Sixty-five percent of vehicular homicides below .08 involve other drugs. Repeat offenders put a lot of costs on the counties. Violence, chemical use, and alcohol affect everyone in Washington: families, employers, and the criminal justice system. We need this protocol to level the playing field. This procedure is currently well received by attorneys and probation departments. Not getting a urinalysis test makes it difficult to make proper level placement if the client needs treatment. Drug tests can also help substantiate client statements that they don't have a problem.

Testimony Against: Assessment providers use all the tools available and want to do the best clinical job possible. There are a number of economic realities. The state keeps expecting more out of assessment providers, but vendor rates have been about the same for 4 years. Insurance rates are going up, and that makes it harder to serve public clients. Lab tests are a good idea. We do them on child protective services clients and are reimbursed for that, but we can't do it for free. Clinical practice does not need to be in legislation. This bill doesn't give us adequate flexibility. We are concerned about the initial costs. We believe in the philosophical underpinnings, but believe this can be worked out through the WAC process without legislation.

Persons Testifying: (In support) Conrad Thompson, Snohomish DUI Task Force; Marsha Masters; Mike Kersey; Donald D. Cox, A New Spirit Recovery Program; Greg Bauer, Alpine

Recovery Services; Tim Liddle, Island Assessment and Counseling; and Jean Wessman, Washington Association of Counties.

(Opposed) Linda Grant, Association of Alcoholism and Addiction Programs.

Persons Signed In To Testify But Not Testifying: None.