

SENATE BILL REPORT

SB 5338

AS OF FEBRUARY 3, 1993

Brief Description: Changing provisions relating to court-referred treatment programs.

SPONSORS: Senators A. Smith, Quigley, McCaslin, Winsley and M. Rasmussen

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Tom McBride (786-7448)

Hearing Dates: February 4, 1993

BACKGROUND:

In district and municipal courts, individuals charged with misdemeanors or gross misdemeanors can ask the court to grant a deferred prosecution, claiming that the wrongful conduct was caused by alcohol or drug addiction or a mental health problem.

Under a deferred prosecution the individual enters a court approved program for alcohol, drug or mental health treatment. The court considers an assessment of the individual's addiction or problem and the recommended course of treatment. The treatment plan is in effect for two years, after which the charge is dismissed, if the individual has complied with the treatment plan.

Currently, if an individual does not comply with the treatment plan, the state has the burden of proving that the treatment plan was violated, and that the deferred prosecution should be revoked.

SUMMARY:

When an individual is reported to have violated the terms of the treatment plan, the individual is required to show by clear and convincing evidence that the violation was either caused by circumstances beyond the individual's control or that the violation did not involve a lack of commitment to the treatment. The state still retains the burden of proving the violation.

It is required that the initial assessment of an individual is not done by the same facility that will treat the individual under the treatment plan. The Department of Social and Health Services is directed to adopt rules to prevent collusion in the referral of individuals from the assessment facility to a treatment facility.

Appropriation: none

Revenue: none

Fiscal Note: none requested