

SENATE BILL REPORT

2SHB 3089

As Reported By Senate Committee On:
Law & Justice, February 26, 1998

Title: An act relating to drunk driving.

Brief Description: Limiting eligibility for the deferred prosecution program to once in a lifetime.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives McDonald, Sheahan, Kessler, Bush, Robertson and Boldt).

Brief History:

Committee Activity: Law & Justice: 2/26/98 [DP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Roach, Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin and Stevens.

Staff: Lidia Mori (786-7755)

Background: Any person charged with a nonfelony offense in district court may petition for what is called a "deferred prosecution." Driving under the influence (DUI) is the offense for which a deferred prosecution is most often sought. In order to qualify for a deferred prosecution, a person must allege that the charged criminal conduct resulted from the person's alcoholism or drug addiction, that the conduct is likely to recur if the alcoholism or addiction is not treated, and that the alcoholism or addiction is in fact amenable to treatment. Among other things, the applicant must also acknowledge in writing that he or she waives the right to testify, to call witnesses, to have a speedy trial, or to have a jury. The applicant must also stipulate to the admissibility of the evidence contained in the police report.

If a person is granted a deferred prosecution and successfully completes a court-ordered, two-year treatment program, the court will dismiss the charges. Conviction for another offense during the two-year program results in judgment being entered on the deferred charge.

A person is not eligible for a deferred prosecution more than once in a five-year period.

Summary of Bill: No person charged with a violation of the motor vehicle code is eligible for a deferred prosecution program more than once. Commission of another offense during the two-year program that results in conviction results in entry of judgment on the deferred charge. The court may not dismiss the deferred charge until three years after proof of completion of the two-year treatment program.

The bill is null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Requested on February 8, 1998.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Everybody deserves a second change. Deferred prosecution gives people that second chance but once in a lifetime is sufficient. The Association of Alcoholism and Addiction Programs have always said deferred prosecution is a privilege and statistics show it works.

Testimony Against: None.

Testified: PRO: Representative McDonald, prime sponsor; Linda Grant, Association of Alcoholism and Addition Programs.