
Community Safety Committee

HB 1113

Brief Description: Concerning accountability and access to services for individuals charged with a misdemeanor.

Sponsors: Representatives Farivar, Goodman, Simmons, Taylor, Macri, Scott, Fosse, Street, Reed, Senn, Berry, Alvarado, Morgan, Mena, Peterson, Stonier, Walen, Pollet, Wylie, Cortes, Obras, Gregerson, Ormsby, Bergquist, Salahuddin and Hill.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Authorizes the court to dismiss a defendant's misdemeanor or gross misdemeanor charge upon the defendant's substantial compliance with court-ordered conditions, subject to certain requirements and exceptions.
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Hearing Date: 2/3/25

Staff: Corey Patton (786-7388).

Background:

Under certain circumstances, the prosecuting authority reviewing a case for possible criminal charges against a person may use its discretion to offer a diversion opportunity to the person before filing charges. Generally, pre-filing diversions involve an agreement by the prosecuting authority to decline to file the pending charges if the person complies with certain conditions, such as completing a treatment program or remaining crime-free for an agreed period of time. These types of pre-filing diversions are typically operated by the prosecuting authority.

If charges have been filed in a case, the defendant may seek other opportunities to resolve the case prior to trial depending on the nature of the charges. For example, a defendant charged with a misdemeanor or gross misdemeanor in district or municipal court may petition the court for a

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deferred prosecution, subject to meeting eligibility criteria, making certain stipulations and waivers, and complying with a specific treatment plan and other conditions. If the defendant completes the treatment plan and all other statutory requirements, the court must dismiss the defendant's charges.

Alternatively, a defendant may enter into a dispositional continuance, such as a Stipulated Order of Continuance, with the agreement of the prosecutor and approval of the court. A dispositional continuance typically requires the defendant to comply with agreed conditions in exchange for the dismissal of the defendant's charges. To enter into a dispositional continuance, the defendant must waive the right to a speedy trial. In some cases, the defendant must also waive the right to a trial by jury and agree to a stipulated facts trial if the defendant violates the conditions of the continuance.

Summary of Bill:

The court is authorized, upon motion of either party, to agree to dismiss a defendant's misdemeanor or gross misdemeanor charge upon substantial compliance with court-ordered terms, conditions, or programs. The following offenses and any violations of equivalent local ordinances are not eligible to be dismissed through this process:

- Reckless Driving;
- Racing;
- Reckless Endangerment of Roadway Workers;
- Negligent Driving in the first or second degree;
- Negligent Driving in the second degree with a vulnerable user victim;
- Hit and Run;
- Stalking;
- Hazing;
- Animal Cruelty in the second degree involving the knowing, reckless, or criminally negligent infliction of unnecessary suffering or pain upon an animal, or abandonment of an animal that was involved in animal fighting;
- Assault in the fourth degree;
- Communication with a Minor or Someone Believed to be a Minor for Immoral Purposes;
- Harassment;
- Cyber Harassment, except where the offense solely involves using lewd, lascivious, indecent, or obscene words, images, or language, or suggesting the commission of any lewd or lascivious act;
- Unlawful Carrying or Handling of a Firearm;
- Indecent Exposure;
- Disclosing Intimate Images;
- Abandonment of a Dependent Person in the third degree;
- Leaving a Child in the Care of a Sex Offender;
- Criminal Mistreatment in the third or fourth degree;
- Interfering with the Reporting of Domestic Violence;
- Reckless Endangerment;

- certain offenses related to aiming or discharging a firearm or other specified weapon, or setting a so-called trap or other specified weapon;
- domestic violence offenses involving an intimate partner;
- violations of certain protection or no-contact orders;
- any offense with a finding of sexual motivation;
- any offense that would constitute a prior offense for purposes of determining Driving Under the Influence or Physical Control penalties;
- any traffic offense involving a commercial driver's license or learner's permit, or involving the operation of a commercial motor vehicle; and
- any offense that was originally filed as a felony but subsequently amended to, or refiled as, a misdemeanor or gross misdemeanor.

If the defendant agrees to waive the right to a speedy trial, the court may continue the defendant's case for a period not to exceed 12 months and order the defendant to comply with terms, conditions, or programs that the court deems appropriate based on the defendant's specific situation. The court must rule on the motion in open court. Full restitution must be a required condition, but the defendant's inability to pay restitution due to indigence may not be grounds to deny a dismissal following progress towards compliance or as a basis for finding that the defendant has failed to substantially comply. If the defendant substantially complies with the court-ordered terms and conditions, the court must dismiss the pending charges.

If it appears to the prosecutor that the defendant is not substantially complying with the court-ordered terms and conditions, and after providing the defendant with written notice of the alleged violations and disclosure of all evidence to be offered against the defendant, the court must hold a hearing to determine whether the defendant has willfully failed to substantially comply with the court-ordered terms and conditions. The Rules of Evidence do not apply at the hearing. The defendant must be afforded the due process rights required for the revocation of probation, including the right to confront and cross-examine all witnesses, and the defendant must have the opportunity to be heard in person and present evidence. If the court finds by a preponderance of the evidence that the defendant is willfully failing to substantially comply with the court-ordered terms and conditions, the court may either continue the hearing to provide additional time for substantial compliance or end the period of continuance and set a new commencement date.

If the court agrees to dismiss the defendant's charge, any written confirmation of completion of an assessment or statement indicating the defendant's enrollment or referral to a specific service or program, or any written update regarding treatment or services, is considered a treatment evaluation or compliance form ordered by the court for purposes of specified court rules. The prosecution may not use admissions made by the defendant in the course of receiving treatment or services pursuant to the offer to dismiss in the prosecution's case in chief. The defendant's entry into a judicially authorized dismissal following substantial compliance with court-ordered conditions does not constitute a conviction for purposes of reporting certain convictions to the Department of Licensing.

Appropriation: None.

Fiscal Note: Requested on January 28, 2025.

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