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BILL ANALYSIS



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Senate Bills 794 and 795 (as introduced 9-9-09)
Sponsor: Senator Alan L. Cropsey (S.B. 794)
Senator Patricia L. Birkholz (S.B. 795)
Committee: Judiciary

Date Completed: 1-26-10

CONTENT

Senate Bill 794 would amend the Revised Judicature Act (RJA) to do all of the following:

- Create a three-year DWI/sobriety court interlock pilot project beginning on October 1, 2010, for individuals convicted of two or more violations of operating a vehicle while intoxicated or while impaired.
- Require a participating DWI/sobriety court judge to certify to the Secretary of State that a person seeking a restricted license had been admitted to a DWI/sobriety court and that an interlock device had been placed on each vehicle owned or operated by that person.
- Require a DWI/sobriety court judge to inform the Secretary of State if a program participant were terminated or committed certain violations.
- Require the Secretary of State to suspend or revoke a restricted license if he or she received notification of a violation from the court.
- Require DWI/sobriety courts participating in the pilot project to report annually to the Legislature, the Secretary of State, and the Supreme Court.

Senate Bill 795 would amend the Michigan Vehicle Code to do all of the following:

- Require the Secretary of State to issue a restricted license to an individual if a judge certified that the person was in a DWI/sobriety court program and that an interlock device had been placed on each vehicle he or she owned or operated.
- Specify that a restricted license would allow only travel to and from work, school, or alcohol treatment.
- Specify that a restricted license would allow the person to operate only a vehicle equipped with an ignition interlock device.
- Require the Secretary of State to hold in abeyance all driver responsibility fees for the first year that a DWI/sobriety court program participant had a restricted license.
- Exempt a program participant's vehicle from immobilization or forfeiture requirements if he or she remained in good standing with the DWI/sobriety court pilot project and successfully completed the program.
- Prohibit an ignition interlock device from being removed until a hearing officer or DWI/sobriety court ordered its removal.

The bills are tie-barred.

Senate Bill 794 would define "DWI/sobriety courts" as the specialized court programs established within judicial circuits and districts throughout Michigan that are designed to reduce recidivism among alcohol offenders and that comply with the 10 guiding principles of DWI courts as promulgated by the National Association of Drug Court Professionals. (Please see **BACKGROUND** for information on the guiding principles.)

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The bill would create a DWI/sobriety court interlock pilot project using the DWI/sobriety courts in Michigan and in accordance with Chapter 10A (Drug Treatment Courts) of the RJA. The pilot project would begin on October 1, 2010, and continue for three years. All DWI/sobriety courts that participated in the pilot project would have to comply with the 10 guiding principles of DWI courts.

To be considered for placement in the pilot project, an individual would have to have been convicted of two or more violations of operating a vehicle while the intoxicated or operating a vehicle while visibly impaired due to the consumption of alcohol and/or a controlled substance.

Before the Secretary of State issued a restricted license to a participant in the pilot project, the DWI/sobriety court judge would have to certify to the Secretary of State that the person seeking the restricted license had been admitted into the DWI/sobriety court and that an interlock device had been placed on each motor vehicle owned or operated by that person.

If any of the following occurred, the DWI/sobriety court judge would have to inform the Secretary of State immediately:

- A program participant was terminated from the DWI/sobriety court program.
- The court became aware that a program participant operated a motor vehicle that was not equipped with an interlock device or that a program participant tampered with or removed a court-ordered interlock device without prior court approval.
- A program participant was charged with a new violation of operating while intoxicated or operating while impaired.

If the Secretary of State received notice of one of those occurrences, the person's restricted license would have to be summarily revoked or suspended.

Each year, all DWI/sobriety courts that participated in the pilot project, in cooperation with the State Court Administrative Office, would have to give the Legislature, the Secretary of State, and the Supreme Court documentation of program participants' compliance with court-ordered conditions. Best practices available would have to be used in the research in question, as resources allowed, to provide statistically reliable data regarding the impact of the pilot project on public safety and the improvement of life conditions for program participants. The topics documented would have to include all of the following:

- The percentage of those participants ordered to place interlock devices on their vehicles who actually complied with the order.
- The percentage of participants who removed court-ordered interlocks from their vehicles without court approval.
- The percentage of participants who consumed alcohol or controlled substances.
- The percentage of participants found to have tampered with court-ordered interlocks.
- The percentage of participants who operated a motor vehicle not equipped with an interlock.
- Relevant treatment information regarding program participants.
- The percentage of people convicted of a new offense for operating while intoxicated or operating while impaired.

-- Any other information found to be relevant.

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The bill would require the Secretary of State to issue a restricted license to an individual whose license was suspended or revoked for having two or more violations of operating while intoxicated or operating while impaired after his or her license had been revoked for 45 days, if a judge sitting in a DWI/sobriety court participating in the proposed pilot project certified to the Secretary of State that the individual had been admitted into a DWI/sobriety court, and that an ignition interlock device approved, certified, and installed as required under the Vehicle Code had been installed on each of the motor vehicles owned or operated by the individual. The DWI/sobriety court judge, however, would have the discretion to select the ignition interlock provider to install the device from the list of providers approved by the Secretary of State under the Code.

A restricted license would permit the person to whom it was issued to operate only the vehicle equipped with an ignition interlock device and only for the purpose of driving to or from the person's place of work, school, or alcohol treatment program. An ignition interlock device would have to remain installed on the vehicle or any replacement vehicle until the Secretary of State issued an unrestricted license or it was ordered removed by a hearing officer or DWI/sobriety court.

Following completion of the DWI/sobriety court pilot program, the restricted license would have to be revoked if any of the following events occurred:

- The person operated a motor vehicle without an ignition interlock device.
- The person removed an ignition interlock device from the vehicle.
- The person was arrested for operating while intoxicated or while impaired.

All driver responsibility fees required to be assessed by the Secretary of State under Section 732a of the Vehicle Code would have to be held in abeyance for the first year that the participant had a restricted license while being involved in the DWI/sobriety court pilot project. One year after the restricted license was granted, the driver responsibility fees would have to be assessed and paid pursuant to the payment schedule in Section 732a. (Section 732a requires the assessment of driver responsibility fees for certain moving violations.)

An ignition interlock device installed under the bill could not be removed until the hearing officer or DWI/sobriety court ordered its removal.

If an individual remained in good standing with the DWI/sobriety court pilot project and successfully completed the court program, his or her vehicle that otherwise would be subject to immobilization or forfeiture under the Code would be exempt from either of those sanctions.

Under the Code, the court may order vehicle immobilization for up to 180 days for certain drunk driving convictions when the person has no prior convictions, and must order vehicle immobilization for other periods for a person convicted of drunk driving resulting in death or serious impairment and for repeat drunk driving offenders. Under the bill, vehicle immobilization would be subject to the provision described above.

Proposed MCL 600.1084 (S.B. 794)
MCL 257.303 et al. (S.B. 795)

BACKGROUND

According to the National Center for DWI Courts website (www.dwicourts.org), the 10 Guiding Principles of DWI Courts are as follows:

- #1: Determine the Population
- #2: Perform a Clinical Assessment
- #3: Develop the Treatment Plan
- #4: Supervise the Offender
- #5: Forge Agency, Organization, and Community Partnerships
- #6: Take a Judicial Leadership Role
- #7: Develop Case Management Strategies
- #8: Address Transportation Issues
- #9: Evaluate the Program
- #10: Ensure a Sustainable Program

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 794

There are currently 87 Drug Treatment Courts in Michigan, 23 of which are DWI/Sobriety Courts. The Michigan Drug Court program is administered by the State Court Administrative Office (SCAO) and provides funding to 18 of the 23 DWI Courts. A total of \$474,900 was awarded to DWI Courts in FY 2009-10. In addition, \$490,000 was awarded to 10 DWI Courts through the Office of Highway Safety Planning Grant Program, also administered by the SCAO.

The State Court Administrative Office states that it would incur programming costs of approximately \$10,000.

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The Department of State has indicated there would be some costs associated with programming, manual tracking of people in the proposed pilot project, and review of compliance with the requirements associated with interlock devices. The amount of these costs is indeterminate but dependent on the number of participants who enrolled in the pilot project.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.