

# Legislative Analysis

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## DRUNK AND DRUGGED DRIVING PROVISIONS

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### Senate Bill 863

Sponsor: Sen. Phil Pavlov

*(Enacted as Public Act 316 of 2014)*

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 10-1-14

## A SUMMARY OF SENATE BILL 863 AS PASSED BY THE SENATE 9-23-14

Senate Bill 863 amends the Code of Criminal Procedure (MCL 765.6b) to make the following changes:

- Current law allows a court to place conditions on a person's release on bail, to have the order for the "protective conditions" be entered into LEIN (Law Enforcement Information Network) by a law enforcement agency within the court's jurisdiction, and to subject the person to arrest if the conditions are violated. The bill would allow a judge or district court magistrate to direct the *issuing court* or the law enforcement agency to enter the order or any amended order into LEIN, to remove the order or amended order from LEIN if it were rescinded, and to remove the order or amended order from LEIN upon expiration.
- The bill would also create a similar provision that would pertain to release after an arrest on a charge of driving with the presence of alcohol, a controlled substance, or other intoxicating substance, or any combination of them, when a subsequent chemical test is pending.

Specifically, if a defendant had submitted to a preliminary roadside analysis, and the analysis showed the presence of alcohol, a controlled substance, or other intoxicating substance (or any combination of these) and a subsequent chemical test were pending, a judge or district court magistrate could release the defendant on bail subject to the following conditions reasonably necessary for the protection of the public:

- The defendant could not operate a motor vehicle under the influence of alcohol, a controlled substance, or other intoxicating substance, or any combination of them.
- A violation of these conditions of release would subject the defendant to arrest without a warrant, to forfeiture or revocation of bail, and to being held in custody prior to arraignment.

The defendant would have to be informed orally or in a writing personally delivered to the defendant of the above conditions.

Further, the judge or district court magistrate would be required to immediately direct, in writing, the issuing court or a law enforcement agency within the court's jurisdiction to enter the order or amended order issued under the new provision into LEIN; the court or law enforcement agency would then have to immediately enter the order or amended order into LEIN. If the order or amended order were rescinded, the judge or district court magistrate would have to immediately order the issuing court or law enforcement agency to remove it from LEIN, and the issuing court or law enforcement agency would have to immediately remove the order or amended order from LEIN upon its expiration.

The bill would also revise the definition of "electronic monitoring device" to apply not just to GPS models that track the location of an individual, but also devices that monitor an individual's blood alcohol content.

Senate Bill 863, which would take effect 90 days after enactment, is tie-barred to House Bill 5385, meaning that it could not take effect unless HB 5385 is also enacted into law.

**FISCAL IMPACT:**

Senate Bill 863 would not have a significant fiscal impact on the Michigan State Police and local law enforcement agencies.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.