



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5273 (Substitute H-1 as passed by the House)
Sponsor: Representative Marc Corriveau
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 5-17-10

CONTENT

The bill 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 31, 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 the court removed a participant from the program or the participant 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.**

The bill is tie-barred to House Bill 5274, which would amend the Michigan Vehicle Code to require the Secretary of State to issue a restricted license to a person if his or her license were suspended or revoked for 45 days, he or she were admitted into a DWI/sobriety court program, and an ignition interlock device had been installed on each motor vehicle he or she owned or operated.

House Bill 5273 (H-1) 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 Center for DWI Courts. (Please see **BACKGROUND** for information on the guiding principles.)

"Ignition interlock device" would mean that term as defined in Section 20d of the Michigan Vehicle Code. (Section 20d, which takes effect on October 31, 2010, defines "ignition interlock device" as an alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's alcohol level, calibrated so that the motor vehicle cannot be started if the operator's breath alcohol level, as measured by the test, reaches a level of 0.025 gram per 210 liters of breath, and that meets performance standards and technological requirements specified in Section 20d.)

Pilot Project

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 31, 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 either of the following:

- Two or more violations of the Michigan Vehicle Code for operating a vehicle while intoxicated or operating a vehicle while visibly impaired due to the consumption of alcohol and/or a controlled substance, or a substantially corresponding local ordinance.
- One such violation preceded by one or more convictions for violating a local ordinance or law of another state substantially corresponding either to those Vehicle Code violations or operation of a vehicle by a person under 21 who has any bodily alcohol content.

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:

- The court ordered a program participant to be removed from the DWI/sobriety court program before he or she successfully completed it.
- 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, circumvented, or removed a court-ordered interlock device without prior court approval.
- A program participant was charged with a new drunk driving violation.

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.

DWI/Sobriety Court Report

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. The topics documented would have to include all of the following:

- The percentage of 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.

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.

Proposed MCL 600.1084

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

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.

Fiscal Analyst: Bill Bowerman

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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.