

Requested by HOUSE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 961**

1 On page 1 of the printed A-engrossed bill, delete lines 5 through 28.

2 On page 2, delete lines 1 through 17 and insert:

3 **“SECTION 1. ORS 813.210 is amended to read:**

4 “813.210. (1) After an accusatory instrument has been filed charging the
5 defendant with the offense of driving while under the influence of
6 intoxicants, a defendant may file with the court a petition for a driving while
7 under the influence of intoxicants diversion agreement described in ORS
8 813.200. The petition:

9 “(a) Must be filed within 30 days after the date of the defendant’s first
10 appearance on the summons, unless a later filing date is allowed by the court
11 upon a showing of good cause. For purposes of this paragraph, the filing of
12 a demurrer, a motion to suppress or a motion for an omnibus hearing does
13 not constitute good cause.

14 “(b) Notwithstanding paragraph (a) of this subsection, may not be filed
15 after entry of a guilty plea or a no contest plea or after commencement of
16 any trial on the charge whether or not a new trial or retrial is ordered for
17 any reason.

18 **“(c) Notwithstanding paragraph (a) of this subsection, may be filed
19 up to 14 days after the date the prosecuting attorney sends the labo-
20 ratory test results of the defendant’s urine or blood sample analysis
21 to the defendant’s attorney or, if the defendant is unrepresented, the**

1 **defendant, if:**

2 **“(A) The accusatory instrument alleges that the defendant was**
3 **driving under the influence of intoxicants and alleges that at the time**
4 **the conduct occurred the defendant was under the influence of a con-**
5 **trolled substance or an inhalant;**

6 **“(B) The defendant has not received notice of what the defendant’s**
7 **blood alcohol content was at the time the conduct occurred or if at the**
8 **time the conduct occurred the defendant had less than 0.08 percent by**
9 **weight of alcohol in the blood; and**

10 **“(C) A police officer obtained a urine or blood sample from the de-**
11 **fendant.**

12 “(2) The defendant shall pay to the court, at the time of filing a petition
13 for a driving while under the influence of intoxicants diversion agreement,
14 a filing fee established under ORS 813.240. The court may make provision for
15 payment of the filing fee by the defendant on an installment basis. The court
16 may waive all or part of the filing fee in cases involving indigent defendants.
17 The filing fee paid to the court under this subsection shall be retained by
18 the court if the petition is allowed. The filing fee shall be distributed as
19 provided by ORS 813.240.

20 “(3) The defendant shall pay to the agency or organization providing the
21 screening interview, at the time the petition is allowed, the fee required by
22 ORS 813.240 (3).

23 “(4)(a) Unless otherwise provided under paragraph (b) of this subsection,
24 the defendant shall pay to the court any court-appointed attorney fees agreed
25 to under ORS 813.200 (4)(i). Payments shall be made prior to the end of the
26 diversion period on a schedule determined by the court.

27 “(b) The court may waive all or part of the court-appointed attorney fees
28 agreed to under ORS 813.200 (4)(i).

29 “(5) The defendant shall begin paying to the court any restitution ordered
30 under ORS 137.108. Payments shall be made during the diversion period on

1 a schedule determined by the court.

2 “(6) The defendant shall cause a copy of the petition for a driving while
3 under the influence of intoxicants diversion agreement to be served upon the
4 district attorney or city attorney. The district attorney or city attorney may
5 file with the court, within 15 days after the date of service, a written ob-
6 jection to the petition and a request for a hearing.”

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