



MOTHERS AGAINST DRUNK DRIVING
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DATE: May 7, 2019

TO: Senate Judiciary Committee

FROM: Cate Duke, Mothers Against Drunk Driving

SUBJECT: HB3201-A

Dear Chair Prozanski, Vice Chair Thatcher, and Members of the Committee:

On behalf of Mothers Against Drunk Driving, I would like to express our concerns about HB3201-A and the negative consequences this could have on the prosecution of impaired drivers in Oregon.

As many of you know, DUII is the most commonly committed crime in Oregon, and the major contributor to fatal and injury crashes in our state. The prosecution of these crimes is one of the most important steps in preventing recidivism, addressing substance abuse and treating chemical dependency. Oregon's diversion program was designed with two concepts in mind. First, to reduce a tremendous caseload at the courthouse, and second, to give first time offenders an opportunity to correct dangerous behavior and address substance abuse issues in a supervised setting with the courts, in lieu of a trial and conviction.

To qualify for a DUII diversion, a first time offender must waive certain rights to participate. They also must enter a plea of guilty or no contest. This is a critical step, in that a court may, upon a termination of a diversion agreement, immediately convict the diversion participant. This is important both for the caseload of the court and for the defendant to acknowledge their wrongdoing, knowing that a conviction awaits them if they do not adhere to the rules of diversion.

HB 3201-A would unintentionally create a circumstance that, despite good intentions and the waiver of the rights enumerated in the bill, almost ensure that every failed diversion would go to trial. Thousands of DUII cases that otherwise would have been convicted once diversion agreements were terminated would clog the courts. That means the addition of many more cases for prosecutors, court staff, judges and others involved who are already spread too thin with ever-increasing caseloads. Giving DUII defendants a second bite at the apple will create a tremendous additional burden on the courts, and will exacerbate existing backlogs and delays in our justice system, up and down the dockets across our state. Additionally, there are valid opinions from judges and legal experts that, from a constitutional standpoint, a conviction simply cannot happen without the defendant entering a plea, regardless of what that plea is, and regardless of what was waived by the defendant as a condition of participation in diversion. If held unconstitutional, and with extended diversion timelines now allowed, these additional cases may proceed to trial literally years after the initial DUII offense.

Evidence, case notes, and witnesses would need to be maintained throughout that entire time.

MADD is not insensitive to the federal immigration issues that are the impetus for HB3201-A. However, MADD sees these are very separate issues from the damage that will be caused to the court system, and in particular, the accountability and rehabilitation of DUII offenders. This approach, regardless of good intentions, has significant unintended consequences that will reverberate throughout our courts and may delay if not deny justice to many of the most vulnerable in our community...some whom this bill is intending to help.

Thank you for your consideration in these matters. It is MADD's goal that we can work together constructively to solve such issues without creating new ones. If there is a way to preserve the effectiveness of DUII Diversion without additionally burdening our court system while still addressing the author's intent of HB3201-A, I hope you will consider MADD a committed partner in this conversation.

Sincerely,

Cate Duke
MADD - Oregon