

SENATE AMENDMENTS TO SENATE BILL 568

By COMMITTEE ON JUDICIARY

March 13

- 1 On page 1 of the printed bill, delete lines 5 through 31.
- 2 On page 2, delete lines 1 through 5 and insert:
- 3 **“SECTION 1.** ORS 813.645 is amended to read:
- 4 “813.645. (1) A defendant may apply by motion to the court in which a driving while under the
- 5 influence of intoxicants diversion agreement described in ORS 813.230 was entered for an order va-
- 6 cating the requirement to install and use an ignition interlock device if the defendant:
- 7 “(a) Has complied with the condition of the diversion agreement described in ORS 813.602 (3)
- 8 for at least six consecutive months and provides a certificate to the court from the ignition interlock
- 9 device manufacturer’s representative stating that the device has not recorded a negative report; and
- 10 “(b) The defendant has entered into and is in compliance with any treatment program that the
- 11 person is required to participate in as a condition of diversion.
- 12 “(2) The defendant shall cause to be served on the district attorney or city prosecutor a copy
- 13 of the motion for an order vacating the requirement to install and use an ignition interlock device
- 14 under ORS 813.602 (3). The copy of the motion shall be served on the district attorney or city
- 15 prosecutor at the time the motion is filed with the court. The district attorney or city prosecutor
- 16 may contest the motion.
- 17 **“ (3) A motion under this section must include the following information:**
- 18 **“ (a) An affidavit or declaration that states that the defendant has complied with the**
- 19 **condition of the diversion agreement described in ORS 813.602 (3) for at least six consecutive**
- 20 **months with no negative results;**
- 21 **“ (b) A copy of the certificate described in subsection (1)(a) of this section from the ig-**
- 22 **nitiation interlock device manufacturer’s representative stating that the device has not re-**
- 23 **corded a negative report; and**
- 24 **“ (c) If the defendant is required to participate in a treatment program as a condition of**
- 25 **diversion, a letter signed by a treatment counselor from the treatment program in which the**
- 26 **defendant is enrolled stating that the defendant has entered into and is in compliance with**
- 27 **the treatment program.**
- 28 “[3] (4) The court [*shall*] **may** hold a hearing on a petition filed in accordance with subsection
- 29 (1) of this section. **The court shall hold a hearing if the district attorney or city prosecutor:**
- 30 **“ (a) Contests the motion;**
- 31 **“ (b) Requests a hearing; and**
- 32 **“ (c) Files a written objection with the court within 10 days after the date of service.**
- 33 **“ (5) In determining whether to grant the petition, the court shall consider:**
- 34 **“ (a) The nature of the underlying crime for which driving privileges were suspended.**
- 35 **“ (b) The blood alcohol content of the defendant at the time of the arrest.**

1 “(c) Any other relevant factors.

2 “[(4)] (6) The court may vacate a defendant’s requirement to install and use an ignition interlock
3 device under ORS 813.602 (3) if, after a hearing described in subsection [(3)] (4) of this section, the
4 court finds by a preponderance of the evidence that the petitioner:

5 “(a) Has complied with the condition of the diversion agreement described in ORS 813.602 (3)
6 for at least six consecutive months with no negative reports; and

7 “(b) Has entered into and is in compliance with any treatment program required as a condition
8 of diversion.

9 “[(5)] (7) When a court vacates a defendant’s requirement to install and use an ignition interlock
10 device under ORS 813.602 (3), the court shall notify the Department of Transportation.”.

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