

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 568**

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
5 driving while under the influence of intoxicants diversion agreement de-
6 scribed in ORS 813.230 was entered for an order vacating the requirement to
7 install and use an ignition interlock device if the defendant:

8 “(a) Has complied with the condition of the diversion agreement described
9 in ORS 813.602 (3) for at least six consecutive months and provides a certif-
10 icate to the court from the ignition interlock device manufacturer’s repre-
11 sentative stating that the device has not recorded a negative report; and

12 “(b) The defendant has entered into and is in compliance with any treat-
13 ment program that the person is required to participate in as a condition of
14 diversion.

15 “(2) The defendant shall cause to be served on the district attorney or city
16 prosecutor a copy of the motion for an order vacating the requirement to
17 install and use an ignition interlock device under ORS 813.602 (3). The copy
18 of the motion shall be served on the district attorney or city prosecutor at
19 the time the motion is filed with the court. The district attorney or city
20 prosecutor may contest the motion.

21 **“(3) A motion under this section must include the following infor-**

1 **mation:**

2 **“(a) An affidavit or declaration that states that the defendant has**
3 **complied with the condition of the diversion agreement described in**
4 **ORS 813.602 (3) for at least six consecutive months with no negative**
5 **results;**

6 **“(b) A copy of the certificate described in subsection (1)(a) of this**
7 **section from the ignition interlock device manufacturer’s represen-**
8 **tative stating that the device has not recorded a negative report; and**

9 **“(c) If the defendant is required to participate in a treatment pro-**
10 **gram as a condition of diversion, a letter signed by a treatment**
11 **counselor from the treatment program in which the defendant is en-**
12 **rolled stating that the defendant has entered into and is in compliance**
13 **with the treatment program.**

14 **“[(3)] (4) The court [shall] may hold a hearing on a petition filed in ac-**
15 **cordance with subsection (1) of this section. The court shall hold a hear-**
16 **ing if the district attorney or city prosecutor:**

17 **“(a) Contests the motion;**

18 **“(b) Requests a hearing; and**

19 **“(c) Files a written objection with the court within 10 days after the**
20 **date of service.**

21 **“(5) In determining whether to grant the petition, the court shall con-**
22 **sider:**

23 **“(a) The nature of the underlying crime for which driving privileges were**
24 **suspended.**

25 **“(b) The blood alcohol content of the defendant at the time of the arrest.**

26 **“(c) Any other relevant factors.**

27 **“[(4)] (6) The court may vacate a defendant’s requirement to install and**
28 **use an ignition interlock device under ORS 813.602 (3) if, after a hearing**
29 **described in subsection [(3)] (4) of this section, the court finds by a prepon-**
30 **derance of the evidence that the petitioner:**

