



**TO: Sen. Floyd Prozanski, Chair
Sen. Kim Thatcher, Vice Chair
Members, Senate Committee on Judiciary**

FR: Oregon District Attorney's Association

RE: Support w/ Amendments – SB 568

February 14, 2023

The Oregon District Attorney's Association supports SB 568 with additional clarity and would seek the support of the Committee for an amendment.

ODAA understands and appreciates the goal of reducing unnecessary hearings for parties and judicial staff. In certain circumstances a person who is on diversion is required to have an ignition interlock device (IID) for the period of diversion. If after six months of installation, the person can show there have been no violations while the IID was installed, and the person has either completed or is in compliance with their required treatment, the person can petition the court to have the IID requirement removed. Currently, the statute requires a hearing. This bill seeks to avoid a hearing if conditions are met and the state does not oppose removal of the IID requirement.

In practice, ignition interlock device removal hearings are straightforward. If the diversion participant has a certificate from an approved IID company certifying six months of "no negative reports" and the person is in compliance with treatment requirements, the state will not likely oppose the motion. If the diversion participant does not have the report, or there has been a violation, or the person has not engaged in or complied with treatment, the state will likely oppose the motion.

Currently, the court must hold a hearing on a motion to vacate a diversion participant's IID requirement. SB 568 would change the current law to state that a court "may" hold a hearing, and that it only "shall" hold a hearing if the state contests the motion, requests a hearing, and files a written objection with the court within 10 days after the date of service of the motion.

SB 568 is a reasonable and efficient measure. However, it can be very difficult for the State to ensure there have been no violations on the IID for the six-month period and to determine the diversion participant's treatment status on a case-by-case basis without a requirement for the diversion participant to submit a copy of the six month "no negative report" and proof of compliance with treatment along with the motion to vacate the IID requirement. This will not be an increased burden on diversion participants as ORS 813.654 already requires that the person show proof of compliance to the court. Furthermore, this will allow the state to only request hearings when truly needed.

Finally, there are circumstances where diversion participants submit a "no negative report" that may be a few weeks old before the court is able to rule on the motion. It is possible that the state would not contest the removal of the ignition interlock device, but then later finds out that there was a violation on the IID in the interim. In these cases, there should be language in ORS 813.654 giving the state the ability to have a hearing to reinstate the IID requirement for the remainder of the diversion period.