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BILL ANALYSIS



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Senate Bills 134 and 135 (as introduced 3-2-23)
Sponsor: Senator Ruth Johnson (S.B. 134)
Senator Kevin Hertel (S.B. 135)
Committee: Civil Rights, Judiciary, and Public Safety

(Senate-passed version)

Date Completed: 5-16-23

INTRODUCTION

The Michigan Vehicle Code prohibits an individual from operating a motor vehicle while intoxicated. Individuals who violate this prohibition multiple times may be placed in the Driving While Intoxicated (DWI)/Sobriety Court Interlock Program and receive a restricted license from the Secretary of State (SOS) after installing an in-vehicle alcohol concentration measuring device (interlock device).

The bills would create the Specialty Court Interlock Program and apply the current requirements for the DWI/Sobriety Court Interlock Program to the Specialty Court Interlock Program. The Specialty Court Interlock Program would allow an individual who was assigned to a specialty court, such as a drug treatment or DWI/sobriety court, to be placed in the Program and receive a restricted license from the SOS after installing an interlock device.

The bills are tie-barred

PREVIOUS LEGISLATION

(Please note: This section does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

Senate Bills 134 and 135 are reintroductions of Senate Bills 810 and 872, respectively, from the 2021-2022 Legislative Session.

FISCAL IMPACT

Senate Bill 134 would have a minimal impact on the State and local units of government. Any impact would be related to the expansion of the use of interlock devices in more specialty courts statewide. Any increase in the installation and use of interlock devices would not likely increase direct costs for local courts. This is primarily because the offender, or user, of the interlock device is responsible for the costs related to the purchase and maintenance of the device. Senate Bill 135 would have no fiscal impact on State or local government.

MCL 600.1084 & 600.1091 (S.B. 134)
257.83 & 257.304 (S.B. 135)

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CONTENT

Senate Bill 134 would amend the Revised Judicature Act to create the Specialty Court Interlock Program, which would allow an individual assigned to a specialty court, such as a drug treatment or Driving While Intoxicated (DWI)/sobriety court, to be placed in the Program and receive a restricted license from the SOS after installing an interlock device.

Senate Bill 135 would amend the Michigan Vehicle Code to apply the current requirements for an individual assigned to a DWI/sobriety court to be issued a restricted license to an individual assigned to the Specialty Court Interlock Program. These current requirements also would apply to the revocation of a restricted license and the issuance of an unrestricted license for an individual assigned to the Specialty Court Interlock Program.

Senate Bill 134

Section 1084 of the Revised Judicature Act creates the DWI/Sobriety Court Interlock Program. Generally, the Program allows the SOS to issue an individual with multiple DWI convictions a restricted license if the individual has been admitted into the Program and an interlock device has been installed on the individual's motor vehicle. The bill would create the Specialty Court Interlock Program and apply the current requirements for the DWI/Sobriety Court Interlock Program to the Specialty Court Interlock Program. Unless otherwise specified, the provisions described below would apply to the Specialty Court Interlock Program and specialty courts, instead of only to the DWI/Sobriety Court Interlock Program and court.

Under the bill, "specialty court" would mean a drug treatment court, a DWI/sobriety court, a hybrid of these two courts, a mental health court, or a veterans treatment court.

("Ignition interlock device" means an alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's alcohol level, calibrated so that the motor vehicle cannot be started if the breath alcohol level of the operator, as measured by the test, reaches a level of 0.025 grams per 210 liters of breath.)

Placement in Program

Under the Act, to be placed in the DWI/Sobriety Court Interlock Program, an individual must be convicted of either of the following:

- Two or more convictions for violating Section 625(1) or 625(3) of the Michigan Vehicle Code, or a local ordinance in the State substantially corresponding to those Sections.
- One conviction of Section 625(1) or Section 625(3) of the Code, or a local ordinance substantially corresponding to those Sections, preceded by one or more convictions for violating a local ordinance or law of another state or the United States that substantially corresponds to those Sections.

(The Sections of the Michigan Vehicle Code described above prohibit a person from operating a vehicle on a highway or other place open to the general public or motor vehicles within the State while intoxicated or while visibly impaired as a result of consumption of alcoholic liquor, a controlled substance, or other intoxicating substance.)

Documentation and Reporting Requirements

The Revised Judicature Act requires a DWI/sobriety court that participates in the DWI/Sobriety Court Interlock Program to report participants' compliance with court ordered conditions to the Legislature, the SOS, and the Supreme Court. Among other information related to participants and assigned interlock devices, the report must include the percentage of participants ordered to place interlock devices on their vehicles who have actually done so, the percentage of participants who removed an interlock device without court approval, and the percentage of participants who consume alcohol or controlled substances.

Issuance of a Restricted License

Under the Act, before the SOS issues a restricted license to a program participant under Section 304 of the Michigan Vehicle Code, the DWI/sobriety court judge must certify to the SOS that the individual seeking the restricted license has been admitted into the program and that an interlock device has been installed on each motor vehicle owned or operated by the individual.

(Section 304 of the Code prescribes the process by which an individual assigned to a DWI/sobriety court may be issued a restricted license. Senate Bill 135 would amend Section 304 of the Code and is described in further detail below.)

Revocation of a Restricted License

The Act requires the DWI/sobriety court to inform immediately the SOS if any of the following occur:

- The court orders that a program participant be removed from the program before completion.
- The court becomes aware that a program participant operates a motor vehicle that is not equipped with an interlock device, or that the participant tampers with the device without court approval.
- A participant is charged with a new violation under the Sections of the Michigan Vehicle Code listed above.

The SOS must revoke a restricted license upon receiving this information.

Mental Health Court

Section 1091 of the Revised Judicature Act allows a district court to adopt or institute a mental health court. The court must receive certification as a mental health court from the State Court Administrative Office, and any mental health court that is not certified may not perform any of the functions of a mental health court, including discharging and dismissing a case as provided by the Act. Under the bill, an uncertified mental health court also could not certify to the SOS that an individual was eligible to receive a restricted license.

Senate Bill 135

Section 304 of the Code prescribes the process by which an individual assigned to a DWI/sobriety court may be issued a restricted license. Unless the bill, the provisions described below would apply to the Specialty Court Interlock Program and specialty courts, instead of the DWI/Sobriety Court Interlock Program and court.

Issuance and Revocation of a Restricted License

The Code prohibits a restricted license from being issued to an individual until after the individual's operator's or chauffeur's license has been suspended or revoked for 45 days and the judge assigned to the DWI/sobriety court certifies that the individual has been admitted into the DWI/Sobriety Court Interlock Program and an interlock device has been installed in each motor vehicle that the individual owns or operates.

The Code specifies that a restricted license is effective until a hearing officer orders an unrestricted license. The hearing officer may not order an unrestricted license until the court notifies the SOS that the individual has successfully completed the DWI/Sobriety Court Interlock Program, among other conditions. The Code specifies that completion of the Program also must be considered positive evidence in determining whether to order an unrestricted license.

The Code requires the SOS to either suspend or revoke a license for specified periods of time if the SOS receives a notification from the DWI/sobriety court as described in Senate Bill 134.

Completion of Program

The Code specifies that the following apply after the individual completes the DWI/Sobriety Court Program:

- The SOS must postpone considering the issuance of an unrestricted license for a period of three months for each act that would be a minor violation if the individual's license had been issued.
- The restricted license must be suspended, revoked, or denied if the individual removes or tampers with an interlock device or is arrested for violations related to operating under the influence of alcohol or other drugs.
- If the individual is convicted of any offense that requires the suspension, revocation, denial, or cancellation of the individual's operator's or chauffeur's license, the restricted license must be acted upon accordingly.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.