OLR Bill Analysis

sHB 5500 (as amended by House "A")*

AN ACT CONCERNING REVISIONS TO VARIOUS LAWS CONCERNING JUROR COMPENSATION, IGNITION INTERLOCK DEVICES, THE DEPARTMENT OF CORRECTION, JUDICIAL RETIREMENT SALARIES AND CRIMINAL LAW AND CRIMINAL PROCEDURE.

TABLE OF CONTENTS:

Extends the law on standing criminal protective orders to defendants found not guilty due to mental disease or defect

SUMMARY

This bill makes various unrelated changes in court-related matters as described in the section-by-section analysis below.

*House Amendment "A" removes provisions from the underlying bill (1) generally increasing the amount and scope of juror compensation and expense reimbursement and (2) extending to people with intellectual disability or autism spectrum disorder an existing pretrial diversionary program.

EFFECTIVE DATE: October 1, 2024, except as otherwise noted below.

§ 1 — APPOINTED COUNSEL RELATED TO FIREARM RISK PROTECTION ORDERS OR RISK WARRANTS

Requires an attorney to be appointed for certain people relating to in-court proceedings for firearm risk protection orders or risk warrants

Existing law allows the police or a prosecutor, under limited circumstances, to apply to court for a risk protection order prohibiting an adult at imminent risk of injuring themselves or someone else from obtaining or possessing firearms, other deadly weapons, or ammunition. The court may also issue a risk warrant for the police to seize these items if the person has them.

The bill requires an attorney to be appointed for the person, for purposes of in-court proceedings relating to these orders or risk warrants, if the person (1) cannot afford an attorney, (2) is represented by a public defender or assigned counsel in a pending criminal case, and (3) is eligible for counsel under the public defender laws.

By law, there is a separate risk warrant process for minors, and counsel must be appointed on the child's behalf for the juvenile court proceedings if the child and his or her parent or guardian (1) cannot afford counsel and (2) are eligible for counsel under the public defender laws.

§ 2 — IGNITION INTERLOCK DEVICES

Sets conditions under which ignition interlock requirements end earlier than usual following administrative per se license suspensions, such as if the person was arrested for DUI due to cannabis use and the charges are withdrawn or dismissed

By law, someone arrested for driving under the influence (DUI) is subject to administrative licensing sanctions and other penalties through the Department of Motor Vehicles (DMV), in addition to criminal prosecution. This is referred to as an "administrative per se" suspension.

Under this law, drivers must operate only ignition interlock device (IID)-equipped vehicles for a period ranging from six months to three years after the suspension ends, depending on certain factors (e.g., their age or the nature of the per se offense) (see *Background — Administrative Per Se Suspension and Related IID Penalties*). A driver must drive IID-equipped vehicles for the longer of the time periods under this law or the criminal DUI statutes if the person is convicted.

The bill sets conditions under which the required IID usage ends earlier than what is otherwise required by law. First, if the person was arrested for DUI and if cannabis was the only detected intoxicating substance, the required IID usage ends when (1) the person is acquitted or all charges are withdrawn, nolled, or dismissed, or (2) the person's conviction is vacated, overturned, or erased. Second, if the person was convicted for DUI and alcohol was one of the intoxicating substances, the required IID usage ends if the person received an absolute pardon. In either case, the DMV commissioner must notify the person in writing when the IID requirements have ended.

The bill specifies that these provisions do not affect any other requirements or conditions that apply to the person.

Background — Administrative Per Se Suspension and Related IID Penalties

By law, administrative per se suspensions in DUI arrests occur when (1) a driver refuses a blood, breath, or urine test or the nontestimonial portion of a drug influence evaluation, or submits to a test and the results indicate an elevated blood alcohol content, or (2) the officer,

through an investigation, concludes that the person was driving under the influence of alcohol, a drug, or both.

Existing law requires drivers arrested for DUI to operate only IID-equipped vehicles for a specified period depending on their age, the nature of the offense, and whether it was a first or subsequent suspension as described in the table below.

Table: IID Penalties for Per Se Offenses

Per Se Offense	***IID Requirement (After 45-Day License Suspension)***		
	First Suspension	***Second Suspension***	***Third or Subsequent Suspension***
Age 21 or older: elevated BAC or found to have been driving under the influence of alcohol, drugs, or both	Six months	One year	Two years
Under Age 21: elevated BAC or found to have been driving under the influence of alcohol, drugs, or both	One year	Two years	Three years
Refusal to submit to a test or the nontestimonial portion of drug influence evaluation, regardless of age	One year	Two years	Three years

§ 3 — LOCATION OF ONLINE AND CELLULAR CRIMES

Specifies that offenses committed by communications through computer networks, cell phones, or similar means can be considered to have been committed either where the communication was sent or received

The bill specifies that offenses committed through communication using various forms of technology may be considered to have been committed either at the place where the communication originated or was received.

Specifically, the bill applies to communications sent through an interactive computer service, computer network, telecommunications service, cellular system, or electronic communication service or system (as defined under specified laws), including email or text messages or any other electronic messages, whether by digital media accounts,

messaging programs, or applications.

EFFECTIVE DATE: Upon passage and applicable to offenses committed before, on, or after that date.

§ 4 — COMPENSATION OF INCARCERATED INDIVIDUALS

Explicitly allows DOC, when setting pay rates for incarcerated individuals performing services on the state's behalf, to give higher rates than the minimum based on skill or other factors, and eliminates the $10 weekly limit on this pay

By law, the Department of Correction (DOC) commissioner, after consulting with the administrative services commissioner and the Office of Policy and Management secretary, must set the compensation schedule for incarcerated individuals for services they perform on the state's behalf at DOC facilities. The schedule must recognize degrees of merit, diligence, and skill, to encourage these individuals' incentive and industry.

PA 23-204, § 153, requires a pay range of between $5 and $10 per week. The bill instead sets a rate of $1 per day, with higher pay rates based on skill level or other factors as the DOC commissioner or his designee determines.

The bill also makes technical changes.

§ 5 — ROUNDING OF CASH BAIL

Requires cash bail amounts to be rounded down to the nearest dollar

By law, anyone detained in a community correctional center under a bench warrant or for arraignment, sentencing, or trial must be released upon posting a bond or cash bail. The bill requires the bail amount to be rounded down to the nearest dollar.

§ 6 — FACTORS TO RESTORE COMPETENCY

Sets the factors that a court must consider when determining the least restrictive placement for a person to restore their competency for trial; generally requires the court, in misdemeanor cases, to presume that outpatient treatment is the appropriate placement

By law, a defendant in a criminal trial cannot be tried, convicted, or sentenced while he or she is not competent (i.e., able to understand the proceedings and assist in his or her own defense). Generally, if the court finds that there is a substantial probability that the defendant will regain

competency after a course of treatment, it must order the defendant to be placed (1) for that treatment (in the custody of DMHAS or certain other agencies, including remaining in DOC custody in some cases) to become competent or (2) in DMHAS custody at a treatment facility pending civil commitment proceedings.

The bill requires the court, in determining the least restrictive placement appropriate and available to restore competency, to consider the following:

1. the nature and circumstances of the alleged crime;

2. the defendant's record of criminal convictions and appearing in court;

3. the defendant's family and community ties;

4. the defendant's willingness and ability to engage with the treatment, and whether his or her substance use would interfere with the ability to succeed in the placement;

5. any of the defendant's psychiatric symptoms, including their nature and severity; and

6. any other relevant factors specific to the defendant and his or her circumstances.

Under the bill, if the defendant is not charged with a felony, the court must presume that outpatient treatment is the least restrictive placement appropriate and available to restore competency. But this does not apply if the court has good cause to find otherwise based on the above factors.

§ 7 — JUDICIAL PENSIONS

Makes a technical change to a law on the judges' retirement system

By law, there is a retirement system for judges, family support magistrates, and workers' compensation administrative law judges, separate from the State Employees Retirement System.

The bill makes a technical change to clarify that these officials must have 10 years of service to be entitled to a pension with benefits, except for those officials who retire at age 70 due to mandatory retirement or retire early due to disability. By law, if these officials retire under one of these exceptions before serving for 10 years, their retirement benefit is reduced by 10% for each year they served less than that.

EFFECTIVE DATE: July 1, 2024

§ 8 — STANDING CRIMINAL PROTECTIVE ORDERS

Extends the law on standing criminal protective orders to defendants found not guilty due to mental disease or defect

The bill allows courts to issue, on a victim's behalf, a standing criminal protective order for someone found not guilty of a crime due to mental disease or defect, under the same standards and requirements that apply following a criminal conviction.

Under existing law, a court may issue a standing criminal protective order if the defendant is convicted of certain crimes (e.g., sexual assault or family violence crimes) if the court determines that the offender's criminal conduct indicates that the order will best serve the interest of the victim and the public. For other crimes, a judge may issue a standing criminal protective order for good cause shown. The order remains in place for the period the court sets, unless the court modifies or revokes it for good cause.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 36 Nay 0 (03/28/2024)