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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2020	.	
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The Committee on Criminal Justice (Simmons) recommended the following:

**Senate Amendment**

Delete lines 37 - 131  
and insert:  
provided in s. 316.193 the opportunity to avoid a conviction for the offense while ensuring the person receives substance abuse treatment if necessary. The state attorney of the judicial circuit shall develop policies and procedures of the pilot program, including program implementation and operation and the selection of approved program providers. In developing such



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11 policies and procedures, the state attorney shall consult local  
12 law enforcement agency representatives, county probation, the  
13 public defender, and local program providers. The state attorney  
14 of each judicial circuit shall operate that circuit's pilot  
15 program. Each judicial circuit shall publish the terms and  
16 conditions of the pilot program on the website of the office of  
17 the state attorney.

18 (2) ELIGIBILITY REQUIREMENTS.—

19 (a) A person charged with driving under the influence,  
20 contrary to s. 316.193, is eligible for participation in the  
21 pilot program if he or she:

22 1. Has not been charged with a prior alcohol-related or  
23 drug-related criminal traffic offense, regardless of  
24 disposition.

25 2. Does not have a pending felony or prior felony  
26 conviction.

27 3. Has no more than two prior misdemeanor convictions.

28 4. Was not involved in a motor vehicle crash or accident  
29 relating to the charge of driving under the influence.

30 5. Was not, at the time of the offense, accompanied in the  
31 vehicle by a person under 18 years of age.

32 6. Did not, at the time of the offense, have a blood-  
33 alcohol level of 0.20 or more grams of alcohol per 100  
34 milliliters of blood; or a breath-alcohol level of 0.20 or more  
35 grams of alcohol per 210 liters of breath.

36 7. Has not previously participated in the pilot program.

37 8. Waives the speedy trial period. The speedy trial period  
38 is tolled immediately upon entry into the pilot program until  
39 the participant completes all terms and enters a plea pursuant



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40 to subsection (4) or the participant is discharged from the  
41 pilot program pursuant to subsection (5).

42 (b) For purposes of this subsection, the term "conviction"  
43 means a determination of guilt which is the result of a plea or  
44 trial, regardless of whether adjudication is withheld or a plea  
45 of nolo contendere is entered.

46 (3) PILOT PROGRAM REQUIREMENTS.-

47 (a) A person must participate in the pilot program for 12  
48 months, during which period he or she may not possess or consume  
49 alcohol, or any controlled substance as set forth in ch. 893,  
50 unless the controlled substance was lawfully obtained from a  
51 practitioner or pursuant to a valid prescription, and must  
52 complete the following as administered by an approved program  
53 provider:

54 1. Fifty hours of community service if, at the time of the  
55 offense, the person had a blood-alcohol level of 0.15 or less  
56 grams of alcohol per 100 milliliters of blood; or a breath-  
57 alcohol level of 0.15 or less grams of alcohol per 210 liters of  
58 breath.

59 2. Seventy-five hours of community service if, at the time  
60 of the offense, the person had a blood-alcohol level more than  
61 0.15, but less than 0.20 grams of alcohol per 100 milliliters of  
62 blood; or breath-alcohol level more than 0.15, but less than  
63 0.20 grams of alcohol per 210 liters of breath; or did not  
64 provide a blood or breath sample.

65 3. A substance abuse course conducted by a DUI program  
66 licensed by the department under s. 322.292, which shall include  
67 a psychosocial evaluation of the person, and any substance abuse  
68 treatment recommendations by such program.



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69           4. A victim's impact panel session, if such a panel exists  
70 within the judicial circuit, or a victim's impact class.

71           (b) A person who participates in the pilot program must pay  
72 all fines and standard costs imposed by the judicial circuit.

73           (c) Upon commencement of the person's participation in the  
74 pilot program, all motor vehicles that are individually or  
75 jointly leased or owned and routinely operated by the person  
76 shall be impounded or immobilized for a period of 10 days.

77           (d)1. After the impoundment or immobilization period  
78 required by paragraph (c), the person shall have installed on  
79 all such vehicles, and must successfully use, an ignition  
80 interlock device approved by the department in accordance with  
81 s. 316.1938 for a period of:

82           a. Ninety days if, at the time of the offense, the person  
83 had blood-alcohol level of 0.15 or lower, grams of alcohol per  
84 100 milliliters of blood; or breath-alcohol level of 0.15 or  
85 lower, grams of alcohol per 210 liters of breath.

86           b. One hundred eighty days if, at the time of the offense,  
87 the person had a blood-alcohol level more than 0.15, but less  
88 than 0.20 grams of alcohol per 100 milliliters of blood; or  
89 breath-alcohol level more than 0.15, but less than 0.20 grams of  
90 alcohol per 210 liters of breath; or did not provide a blood or  
91 breath sample.

92           2. If the person claims inability to pay for an ignition  
93 interlock device and:

94           a. The person's family income is at or below 100 percent of  
95 the federal poverty level as documented by written order of the  
96 court, the regular monthly leasing fee charged to all customers  
97 by the ignition interlock device provider shall be discounted



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98 for that person by 50 percent.

99 b. The person's family income is greater than 100 percent  
100 but at or below 149 percent of the federal poverty level as  
101 documented by written order of the court, the regular monthly  
102 leasing fee charged to all customers by the ignition interlock  
103 device provider shall be discounted for that person by 25  
104 percent.

105 3. A person who qualifies for a discounted monthly leasing  
106 fee pursuant to subparagraph 2. is not required to pay the cost  
107 of installation or deinstallation of the ignition interlock  
108 device.

109 (4) COMPLETION OF PILOT PROGRAM.—If a person complies with  
110 this section and successfully completes the pilot program, he or  
111 she shall be offered an agreement providing for a plea of guilty  
112 or nolo contendere to the offense of reckless driving as provided  
113 in s. 316.192. A person who accepts such plea agreement is not  
114 subject to the provisions of this chapter relating to the  
115 offense of driving under the influence, and the trial judge  
116 shall withhold adjudication for reckless driving notwithstanding  
117 s. 316.656.