

HOUSE RESEARCH

Bill Summary

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Subject: Felony DWI

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Overview

This bill creates a felony level penalty for certain repeat DWI offenders.

Section

- 1 **"Felony"**. Defines felony for purposes of the DWI statutes as a crime punishable by up to 7 years in prison, payment of a \$14,000 fine, or both.
- 2 **Sentence**. Conforming amendment.
- 3 **First-degree driving while Impaired**.
Subd. 1. Degree described. Provides that a DWI violation is classified as first-degree if a person has three prior DWI convictions in the last ten years *in addition to* the current violation. Therefore, this is a "4-in-10" provision. Also provides that a DWI violation is first-degree if a person was previously convicted of first-degree DWI.
Subd. Criminal penalty. Provides that a first-degree violation is a felony. Provides that a person convicted of felony DWI is subject to the mandatory penalties in section 9 of the bill.
- 4 **Second-degree DWI**. Conforming amendment.
- 5 **Third-degree DWI**. Conforming amendment.
- 6 **Fourth-degree DWI**. Conforming amendment.
- 7 **Fourth offense**. Provides a cross-reference indicating that the sentence for a felony DWI offender is first governed by Minn. Stat. § 169A.276 (section 9 of the bill). The remainder of the section is current law and provides the minimum incarceration period for a felony DWI offender whose prison term is not executed: 180 days in local jail, with at least 30 of those days served consecutively (unless the offender is sentenced to certain intensive probation programs for DWI offenders).

The current law reproduced in this section also provides the sentence for an offender's fourth

qualified prior impaired driving incident in 10 years (not necessarily a felony), as opposed to the fourth *conviction* (a felony under this bill). By definition, a conviction always counts as an incident, but an incident may not result in a conviction.

8 **Level of care recommended in chemical use assessment.** Conforming amendment.

9 **Mandatory penalties; felony violations.**

Subd. 1. Mandatory prison sentence. (a) Provides that felony DWI offenders must be sentenced to at least 3 years in prison (this does not necessarily mean 3 years of executed and served prison time; see paragraphs (b) through (e)).

(b) Provides that the court may not stay imposition of the sentence but may stay execution of the sentence as provided in subdivision 2.

(c) Provides that if the court executes the prison sentence for a felony DWI, the offender must serve at least 1/3 of that time in prison, but not more than 2/3, provided the person has successfully completed chemical dependency treatment. The remainder of the time will be served on conditional release.

(d) Further provides that an offender may be released 60 days before serving 1/3 of the prison sentence if in an approved work release program.

(e) Requires a five year conditional release period for offenders sentenced to prison. Permits the DOC to impose conditions of release, including certain intensive probation programs for DWI offenders. Provides for probation revocation. Provides that an offender may not be released from supervision before the five years expires.

Subd. 2. Stay of mandatory sentence. Provides that if the court does not *execute* the sentence under subdivision 1, the provisions of Minn. Stat. § 169A.283, (and § 169A.275) apply. Therefore, if the court stays the execution of the prison sentence, the minimum incarceration for a 4-in-10 DWI offender is 180 days in local jail, with at least 30 of those days served consecutively and no more than 150 days on home detention, *unless* the offender is sentenced to certain intensive probation programs for DWI offenders.

Subd. 3. Driver's license revocation; no stay permitted. Provides that the court may not stay execution of a driver's license revocation.

10 **Stay authorized.** Primarily a conforming amendment. Provides that, subject first to the mandatory penalties and required conditions of stayed sentences under §§ 169A.275 and 169A.276, if the court stays execution of a sentence for a DWI offender it must require the offender to submit to the level of care recommended in a chemical use assessment report (or state on the record its reasons for not doing so).

11 **Custodial arrest.** Adds felony DWI to the DWI offenses requiring custodial arrest.

12 **Definitions; "designated offense".** Adds felony DWI to the DWI offenses that trigger vehicle forfeiture.

13 **Repealer.** Repeals the subdivision of law (169A.275, subd. 4) relating to mandatory penalties for 5-in-10 DWI offenders. These offenders fall under the felony sentencing provisions.

14 **Effective date.** July 1, 2002.