

HB1036 L.003

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

HB14-1036 be amended as follows:

1 Amend printed bill, page 4, line 5, after "(k)", insert "(I)".

2 Page 4, after line 7, insert:

3 "(II) (A) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH
4 (I) OF THIS PARAGRAPH (k), BEFORE THE IMPOSITION OF ANY SENTENCE TO
5 THE DEPARTMENT OF CORRECTIONS FOR A FELONY DUI, DUI PER SE, OR
6 DWAI OFFENSE, AT SENTENCING OR AT RESENTENCING AFTER A
7 REVOCATION OF PROBATION OR A COMMUNITY CORRECTIONS SENTENCE,
8 THE COURT SHALL EXHAUST ALL REASONABLE AND APPROPRIATE
9 ALTERNATIVE SENTENCES FOR THE OFFENSE, CONSIDERING ALL FACTORS
10 DESCRIBED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II).

11 (B) IF THE COURT SENTENCES THE DEFENDANT TO THE
12 DEPARTMENT OF CORRECTIONS FOR A FELONY DUI, DUI PER SE, OR DWAI
13 OFFENSE, IT MUST DETERMINE THAT INCARCERATION IS THE MOST
14 SUITABLE OPTION GIVEN THE FACTS AND CIRCUMSTANCES OF THE CASE,
15 INCLUDING THE DEFENDANT'S WILLINGNESS TO PARTICIPATE IN
16 TREATMENT AND THE DEFENDANT'S OPPORTUNITY TO HAVE PARTICIPATED
17 IN A DUI COURT. ADDITIONALLY, THE COURT MUST DETERMINE THAT ALL
18 OTHER REASONABLE AND APPROPRIATE SANCTIONS AND RESPONSES TO
19 THE VIOLATION THAT ARE AVAILABLE TO THE COURT HAVE BEEN TRIED
20 AND HAVE FAILED, DO NOT APPEAR LIKELY TO BE SUCCESSFUL IF TRIED, OR
21 PRESENT AN UNACCEPTABLE RISK TO PUBLIC SAFETY.

22 (C) IN MAKING THE DETERMINATION DESCRIBED IN
23 SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I), THE COURT SHALL
24 REVIEW, TO THE EXTENT AVAILABLE, THE INFORMATION PROVIDED BY THE
25 SUPERVISING AGENCY, WHICH INCLUDES, BUT IS NOT LIMITED TO, A
26 COMPLETE STATEMENT AS TO WHAT TREATMENT AND SENTENCING
27 OPTIONS HAVE BEEN TRIED AND HAVE FAILED, WHAT OTHER TREATMENT
28 AND SENTENCING OPTIONS ARE AVAILABLE, AND THE REASONS WHY ANY
29 OTHER AVAILABLE TREATMENT AND SENTENCING OPTIONS APPEAR TO BE
30 UNLIKELY TO BE SUCCESSFUL. THE SUPERVISING AGENCY SHALL PROVIDE
31 TO THE COURT THE RISK LEVEL OF THE OFFENDER, AS DETERMINED BY AN
32 EVIDENCE-BASED RISK ASSESSMENT TOOL EMPLOYED BY THE SUPERVISING
33 AGENCY AND ANY OTHER INFORMATION RELEVANT TO THE RISK THAT THE
34 DEFENDANT POSES TO PUBLIC SAFETY."

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