

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 18, 2014
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB14-1036 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 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 (II), THE COURT SHALL
 - 24 REVIEW, TO THE EXTENT AVAILABLE, THE INFORMATION PROVIDED BY THE

1 SUPERVISING AGENCY, WHICH INCLUDES, BUT IS NOT LIMITED TO, A
2 COMPLETE STATEMENT AS TO WHAT TREATMENT AND SENTENCING
3 OPTIONS HAVE BEEN TRIED AND HAVE FAILED, WHAT OTHER TREATMENT
4 AND SENTENCING OPTIONS ARE AVAILABLE, AND THE REASONS WHY ANY
5 OTHER AVAILABLE TREATMENT AND SENTENCING OPTIONS APPEAR TO BE
6 UNLIKELY TO BE SUCCESSFUL. THE SUPERVISING AGENCY SHALL PROVIDE
7 TO THE COURT THE RISK LEVEL OF THE OFFENDER, AS DETERMINED BY AN
8 EVIDENCE-BASED RISK ASSESSMENT TOOL EMPLOYED BY THE SUPERVISING
9 AGENCY AND ANY OTHER INFORMATION RELEVANT TO THE RISK THAT THE
10 DEFENDANT POSES TO PUBLIC SAFETY."

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