

Date of Hearing: March 20, 2017

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 330 (Cooley) – As Amended March 20, 2017

SUBJECT: Highway safety

SUMMARY: Authorizes the court to order a person convicted of driving under the influence of alcohol (DUI) with one or more DUI priors within 10 years, to enroll, participate in, and successfully complete, a qualified 24/7 Sobriety program, as defined, as a condition of probation, parole, sentence, work permit, or as a condition of pretrial release on bond. Specifically, **this bill:**

- 1) Specifies that the court may order a person convicted of a DUI, or DUI with injury, to enroll, participate in, and successfully complete, a qualified 24/7 Sobriety monitoring program as a condition of probation, or as a condition of pretrial release on bond, if the program is available and deemed appropriate, and the person has one or more prior convictions for a DUI or DUI with injury within a 10-year period.
- 2) Provides that a 24/7 Sobriety program requires a participant in the program to abstain from alcohol and unauthorized controlled substances for a designated period of time and requires the program to be evidence-based, as specified.
- 3) Specifies that the program may monitor alcohol or controlled substances through twice-per-day testing at a testing location, continuous transdermal alcohol monitoring via an electronic monitoring device, or by an alternative method approved by the National Highway Traffic Safety Administration (NHTSA) or the U.S. Department of Transportation.
- 4) Specifies that “evidence-based” means the program methodology satisfies the requirements of at least two of the following:
 - a) Evaluation research shows that the program produces the expected positive results;
 - b) The results can be attributed to the program itself, rather than to other extraneous factors or events;
 - c) The program has been documented as effective by informed experts and other sources; or,
 - d) The program is endorsed by a federal agency or respected research organization and included in its list of effective programs.
- 5) Provides that a persons ordered into a program may also be required to participate in other driving-under-the-influence programs, or in an ignition interlock device (IID) program, as specified.
- 6) Requires each person to pay program costs commensurate with the person’s ability to pay, as specified.

- 7) Prohibits the court from imposing a program of more than 180 days in length unless the defendant tests positive for alcohol or an unauthorized controlled substance or fails to appear for a test.
- 8) Requires the Office of Traffic Safety to include a description of the provisions authorizing the 24/7 Sobriety program in its highway safety plan required to be submitted to NHTSA by federal law, including and application requirements necessary to qualify for federal grants.
- 9) Requires DMV to establish statewide uniform collection and reporting of data including participant demographic information, participant case history information, testing information, and fees, as specified.

EXISTING LAW:

- 1) Prohibits a person who is under the influence of any alcoholic beverage or drug or combined influence of any alcoholic beverage and drug, or who has 0.08% or more, by weight, of alcohol in his or her blood, from driving a vehicle while under the influence of alcohol or from driving a vehicle while under the influence of alcohol and causing a person other than the driver bodily injury.
- 2) Authorizes the court to grant probation to a person who commits the above offense within 10 years of a separate DUI violation under specific conditions, including a fine, imprisonment in jail, suspension of the person's driving privilege, and enrollment and participation in a specified licensed DUI program.
- 3) Requires, beginning January 1, 2019, every DUI or alcohol-related reckless driving offender to install an IID for a specified period of time, depending on the nature of a violation, in every motor vehicle they own or operate as a condition of having his or her driver's license reinstated or receiving a restricted license.

FISCAL EFFECT: Unknown

COMMENTS: Under existing law, a person who is convicted of DUI or DUI with injury within 10 years of a prior DUI offense can be granted probation after fulfilling certain conditions, including paying a fine, serving a jail sentence, enrollment in a DUI program licensed by the Department of Health Care Services (DHCS), and suspension of the person's driving privilege.

This bill would add an additional pre- and post-trial option to the punishment of a DUI offender who reoffends within 10 years of a prior DUI offense: a 24/7 Sobriety program. In December of 2015, President Obama signed the Fixing America's Surface Transportation Act (FAST Act), a comprehensive highway funding bill. Part of the FAST Act provided incentive grants for states to use 24/7 Sobriety programs and laid out the federal criteria for 24/7 Sobriety programs.

In such a program, as established by this bill, the participant must abstain from alcohol and controlled substances and submit to either twice daily alcohol or drug testing, continuous alcohol testing (through a transdermal bracelet), or other means of drug and alcohol testing as a condition of probation, parole, sentence, work permit, or bond. In similar programs established in other states, if a participant fails a test, they are subject to "certain but modest punishment." Typically, these punishments are a day or two in jail.

24/7 Sobriety began as a pilot program in South Dakota in 2005 and required those convicted of alcohol-related offenses to take twice-a-day breathalyzer tests or wear a continuous alcohol monitoring bracelet. After a five-county pilot project, the program grew to include more jurisdictions and offenses. By the end of 2013, studies found that the total number of repeat driving under the influence arrests in counties operating the program fell by 12%, and the total number of arrests for domestic violence dropped by 9%. Subsequently, 24/7 Sobriety programs have been implemented in several additional states.

The author intends to add to the toolkit of options available to judges in California through the use of 24/7 Sobriety programs. As the author notes, 40% of all traffic-related fatalities in California involve alcohol, and critically, nearly one-third of those convicted for DUI re-offend. By establishing 24/7 Sobriety as an additional option for the courts, the author intends to target those offenders with an underlying alcohol problem that makes them more likely to consistently drive while impaired.

This bill provides that an offender can still be required by the court to participate in any other DHCS-licensed DUI program as he or she would under existing law, and also provides that a participation in a 24/7 Sobriety program may be used in conjunction with participation in an IID program, as required for all DUI offenders.

Double referral: This bill will be referred to the Assembly Public Safety Committee should it pass out of this committee.

Related legislation: SB 545 (Beall) would authorize the court to order a repeat DUI offender, to enroll, participate in, and successfully complete, a 24/7 Sobriety monitoring program as a condition of probation, parole, sentence, or work permit. SB 545 is pending in the Senate Rules Committee.

Previous legislation: AB 933 (Frazier), of 2016 would have authorized the court to order a repeat DUI offender, to enroll, participate in, and successfully complete, a 24/7 Sobriety monitoring program as a condition of probation, parole, sentence, or work permit. AB 933 was held in the Senate Rules Committee.

AB 2367 (Cooley) of 2016 would have authorized the court to order a repeat DUI offender, to enroll, participate in, and successfully complete, a 24/7 Sobriety monitoring program as a condition of probation. AB 2367 was held on the Assembly Appropriations Committee Suspense File.

SB 1046 (Hill), Chapter 783, Statutes of 2016, requires the installation of an IID for a specified period of time as a mandatory condition of receiving a restricted or reinstated driver's license for all DUI offenders statewide.

SB 1066 (Beall, 2016) would have authorized the court to order a repeat DUI offender, to enroll, participate in, and successfully complete, a 24/7 Sobriety monitoring program as a condition of probation, parole, sentence, or work permit. SB 1066 was held on the Assembly Appropriations Committee Suspense File.

REGISTERED SUPPORT / OPPOSITION:

Support

Alcohol Justice

Alcohol Monitoring Systems

Association for Los Angeles Deputy Sheriffs

California Association of Code Enforcement Officers

California College and University Police Chiefs Association

California Narcotic Officers Association

Los Angeles County Professional Peace Officers Association

Los Angeles Police Protective League

Riverside Sheriffs Association

Opposition

None on file

Analysis Prepared by: Justin Behrens / TRANS. /