

Chapter: 83

Session: 2017 Regular Session

Topic: Prohibiting the use of ignition interlock devices enabled with location tracking capabilities

Analyst: Ben Johnson

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Article 1: Criminal Justice-Related Data Practices

Overview

This bill amends section 171.306; defines “location tracking capabilities;” prohibits the use of ignition interlock devices enabled with location tracking unless ordered by a court; requires that program participants receive notification of an ignition interlock device’s location tracking capabilities; and removes the exemption from chapter 14 rulemaking procedures for rules governing the ignition interlock program.

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- 1 **Definitions.** Defines “location tracking capabilities” as the ability of an electronic or wireless device to transmit the geographic location of the device.
- 2 **Performance standards; certification; manufacturer and provider requirements.** Prohibits the commissioner from establishing standards that require ignition interlock devices to use, or enable, location tracking capabilities without a court order. Requires that program participants receive notice of the location tracking capabilities of an ignition interlock device.
- 3 **Program requirements.** Prohibits the enabling of location tracking capabilities on ignition interlock devices unless a court order requires that the capabilities be enabled.
- 4 **Rulemaking.** Removes the commissioner’s exemption from the standard rulemaking procedures, specifically requires that rules necessary to implement the ignition interlock program follow the procedure for the promulgation of rules under chapter 14.
- 5 **Establishment; access to data.** Establishes that case planning data in the statewide supervision system are private data on individuals accessible to state prison facility staff,

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correction staff in community corrections act and county probation counties, and DOC field services staff for purposes of monitoring and enforcing conditions of release.

Article 2: DWI Law Changes**Overview**

This article amends existing statutes to reflect recent court decisions related to the warrant requirement for blood and urine testing of individuals suspected of driving under the influence and establishes a new section addressing license revocations based on a refusal to comply with a warrant for blood or urine testing, or failing a test performed pursuant to a warrant.

In 2015 and 2016, both the Minnesota and U.S. Supreme Courts decided several cases addressing the question of whether law enforcement officers must obtain warrants to conduct breath, blood, and urine tests of individuals suspected of driving under the influence of alcohol or a controlled substance. Both courts determined that:

- (1) no warrant is necessary to require drivers to take a breath test when there is probable cause to believe that the driver is under the influence; and
- (2) a warrant is required before requiring a blood or urine test.

In *State v. Thompson*, the Minnesota Supreme Court concluded that conducting a blood or urine test without a warrant violates the Fourth Amendment, and that no one can be prosecuted for refusing to submit to an unconstitutional warrantless blood or urine test.

- 1 Prior impaired driving-related loss of license.** Amends the definition of “prior impaired driving-related loss of license” to include a license revoked pursuant to a search warrant for a blood or urine test under new section 171.177.
- 2 Refusal to submit to chemical test crime.** Moves the refusal to submit to a blood or urine test to a new clause, clarifying that a warrant is required for a blood or urine test.
- 3 Breath test advisory.** Removes references to blood and urine tests, and to the presence of controlled or hazardous substances, from the advisory that must be given to individuals before they can be required, without a warrant, to take a test to determine if they were driving under the influence of alcohol.
- 4 Blood or urine tests; search warrant required.** Establishes that a blood or urine test can only be conducted pursuant to a search warrant or judicially recognized exception to the warrant requirement, and that tests must be performed pursuant to section 169A.51, 169A.53, and 171.177.
- 5 Requirement for urine or blood test.** Establishes that a blood or urine test may only be required pursuant to a search warrant and where there is probable cause to believe that: (1)

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there is impairment by a substance not subject to testing by a breath test; (2) a controlled substance listed in Schedule I or II is in the person's body; or (3) the person is unconscious or incapacitated to the point that the person is unable to comprehend a breath test advisory or otherwise voluntarily submit to testing.

- 6** **Petition for judicial review.** Extends the time frame from 30 days to 60 days to challenge an implied consent driver's license revocation or plate impoundment order.
- 7** **Judicial Hearing; issues, order, appeal.** Adds an affirmative defense to implied consent proceedings for individuals who violated the law based on having a Schedule I or II controlled substance in their body pursuant to a valid prescription. This affirmative defense already applies to criminal proceedings, but does not currently apply in implied consent proceedings.
- 8** **Applicability of implied consent revocation.** Applies the provision in current law that specifies a shorter driver's license revocation period for certain first time offenders to persons revoked under section 10.
- 9** **Petition for judicial review.** Extends the time frame from 30 days to 60 days to challenge an implied consent driver's license revocation or plate impoundment order.
- 10** **Revocation; pursuant to search warrant.** Creates a new section of law providing for driver's license revocations for persons suspected of a DWI and who fail or refuse to submit to a blood or urine test pursuant to a search warrant. This new section adopts current law applicable to any type of chemical test, but clarifies that any blood or urine test must be pursuant to a warrant. Requires peace officers who execute search warrants for the collection of blood or urine samples in a suspected DWI to certify to the Commissioner of Public Safety when suspects refuse to submit to tests or provide samples that exceed the legal limits. Establishes license revocation standards and administrative and judicial review procedures for blood and urine tests that largely mirror the existing standards and procedures for test refusal and failure in the implied consent law, but include specific provisions related to the warrant requirement. Provides for a prescription drug affirmative defense and a 60-day period to judicially challenge a revocation consistent with the changes made to the implied consent law in section 6 and 9. Requires that a person subjected to a test be informed that refusal is a crime and allows the person the option of an alternative test.

Article 3: DWI –Related Conforming Changes

Overview

This article makes conforming changes to the hunting while impaired law which also apply to operating a snowmobile, ATV, and motorboat while impaired (section 1 to 6); flying while impaired law (section 7 to 11); and possessing firearms while impaired law (sections 12 to 15) consistent with the changes made to the DWI laws in article 2. In addition, the article contains a revisor's instruction to ensure that necessary cross-referencing changes are made to statutes consistent with this bill.