

1 HB648
2 152401-2
3 By Representative Jones
4 RFD: Judiciary
5 First Read: 18-APR-13

1 authority to establish all rules and terms necessary for the
2 implementation of a pretrial diversion program.

3 Section 2. (a) A person charged with a criminal
4 offense under the jurisdiction of the municipal court in a
5 municipality that has established a pretrial diversion program
6 may apply to the court for admittance to the program.

7 (b) Upon receipt of the application and
8 recommendation of the municipal prosecutor, the judge shall
9 determine whether to grant the individual admittance to the
10 program.

11 (c) Upon admittance to the program, the individual
12 shall be required to enter a plea of guilty at which time the
13 case shall be placed in an administrative docket until such
14 time as the offender has completed all requirements of the
15 pretrial diversion program. Imposition of any sentence shall
16 be deferred until such time as the offender completes the
17 pretrial diversion program or is terminated from the program.

18 (d) In the event the offender does not
19 satisfactorily complete the program and all terms thereof, the
20 court shall ~~dismiss the case pursuant to the rules established~~
21 ~~by the municipality~~ impose an appropriate sentence in the same
22 manner as with any guilty plea.

23 (e) Upon successful completion of the program and
24 all terms thereof, the court shall dismiss the case pursuant
25 to the rules established by the municipality.

26 (f) A holder of a commercial driver's license, an
27 operator of a commercial motor vehicle, or a commercial driver

1 learner permit holder who is charged with a violation of a
2 traffic law in this state shall not be eligible for a pretrial
3 diversion program pursuant to this act.

4 ~~(f)~~ (g) Absent wantonness, gross negligence, or
5 intentional misconduct, the municipality, or its officers or
6 employees, shall have no liability, criminal or civil, for the
7 conduct of any offender while participating in a pretrial
8 diversion program established under this act or of any service
9 provider or its agents that are contracted to or who have
10 agreed to provide services to the pretrial diversion program.

11 ~~(g)~~ (h) The municipality, or its officers or
12 employees, shall have no liability, criminal or civil, for any
13 injury or harm to the offender while the offender is a
14 participant in any pretrial diversion program administered
15 pursuant to this act. The municipal prosecutor may require
16 written agreed upon waivers of liability as a prerequisite for
17 admittance into the pretrial diversion program.

18 Section 3. If, on the effective date of this act, a
19 municipal pretrial diversion program, or an equivalent, has
20 been established by local law, the municipal governing body of
21 the municipality governed by such local law may choose to come
22 under the provisions of this act or continue under the
23 provisions of the local law.

24 Section 4. This act shall become effective
25 immediately following its passage and approval by the
26 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 18-APR-13

Read for the second time and placed
on the calendar 2 amendments 23-APR-13

Read for the third time and passed
as amended..... 25-APR-13

Yeas 96, Nays 0, Abstains 1

Jeff Woodard
Clerk