

1 A bill to be entitled
2 An act relating to DUI vehicle impoundment;
3 amending s. 316.193, F.S.; providing for the
4 impoundment of motor vehicles during the period
5 of probation for certain DUI convictions;
6 providing an effective date.

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8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. Paragraph (d) of subsection (6) of section
11 316.193, Florida Statutes, is amended to read:

12 316.193 Driving under the influence; penalties.--

13 (6) With respect to any person convicted of a
14 violation of subsection (1), regardless of any penalty imposed
15 pursuant to subsection (2), subsection (3), or subsection (4):

16 (a) For the first conviction, the court shall place
17 the defendant on probation for a period not to exceed 1 year
18 and, as a condition of such probation, shall order the
19 defendant to participate in public service or a community work
20 project for a minimum of 50 hours; or the court may order
21 instead, that any defendant pay an additional fine of \$10 for
22 each hour of public service or community work otherwise
23 required, if, after consideration of the residence or location
24 of the defendant at the time public service or community work
25 is required, payment of the fine is in the best interests of
26 the state. However, the total period of probation and
27 incarceration may not exceed 1 year.

28 (b) For the second conviction for an offense that
29 occurs within a period of 5 years after the date of a prior
30 conviction for violation of this section, the court shall

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1 order imprisonment for not less than 10 days. At least 48
2 hours of confinement must be consecutive.

3 (c) For the third or subsequent conviction for an
4 offense that occurs within a period of 10 years after the date
5 of a prior conviction for violation of this section, the court
6 shall order imprisonment for not less than 30 days. At least
7 48 hours of confinement must be consecutive.

8 (d) In addition to the penalty imposed under paragraph
9 (a), paragraph (b), or paragraph (c), the court shall also
10 order the impoundment or immobilization of the vehicle that
11 was driven by, or in the actual physical control of, the
12 offender, unless the court finds that the family of the owner
13 of the vehicle has no other public or private means of
14 transportation. The period of impoundment or immobilization is
15 10 days, or, for the second conviction within 3 years, 30
16 days, or, for the third conviction within 5 years, 90 days and
17 shall ~~may not~~ be concurrent with probation if probation is
18 ordered ~~or imprisonment~~. However, the period of impoundment or
19 immobilization may not be concurrent with a jail or prison
20 sentence. If the vehicle is leased or rented, the period of
21 impoundment or immobilization may not extend beyond the
22 expiration of the lease or rental agreement. Within 7 business
23 days after the date that the court issues the order of
24 impoundment or immobilization, the clerk of the court shall
25 send notice by certified mail, return receipt requested, to
26 the registered owner of the vehicle if the registered owner is
27 a person other than the offender and to each person of record
28 claiming a lien against the vehicle. All costs and fees for
29 the impoundment or immobilization, including the cost of
30 notification, must be paid by the owner of the vehicle or, if
31 the vehicle is leased or rented, by the person leasing or

1 renting the vehicle. All sections of s. 713.78, F.S., shall
 2 apply.The person who owns a vehicle that is impounded or
 3 immobilized under this paragraph, or a person who has a lien
 4 of record against such a vehicle, may, within 10 days after
 5 the date that person has knowledge of the location of the
 6 vehicle, file a complaint in the county in which the owner
 7 resides to determine whether the vehicle was wrongfully taken
 8 or withheld from the owner or lienholder. Upon the filing of a
 9 complaint, the owner or lienholder may have the vehicle
 10 released by posting with the court a bond or other adequate
 11 security equal to the amount of the costs and fees for
 12 impoundment or immobilization, including towing or storage, to
 13 ensure the payment of such costs and fees if the owner or
 14 lienholder does not prevail. When the bond is posted and the
 15 fee is paid as set forth in s. 28.24, the clerk of the court
 16 shall issue a certificate releasing the vehicle. At the time
 17 of release, after reasonable inspection, the owner or
 18 lienholder must give a receipt to the towing or storage
 19 company indicating any loss or damage to the vehicle or to the
 20 contents of the vehicle.

21 (e) A defendant, in the court's discretion, may be
 22 required to serve all or any portion of a term of imprisonment
 23 to which the defendant has been sentenced pursuant to this
 24 section in a residential alcoholism treatment program or a
 25 residential drug abuse treatment program. Any time spent in
 26 such a program must be credited by the court toward the term
 27 of imprisonment.

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 29 For the purposes of this section, any conviction for a
 30 violation of s. 327.35; a previous conviction for the
 31 violation of former s. 316.1931, former s. 860.01, or former

1 s. 316.028; or a previous conviction outside this state for
2 driving under the influence, driving while intoxicated,
3 driving with an unlawful blood-alcohol level, driving with an
4 unlawful breath-alcohol level, or any other similar
5 alcohol-related or drug-related traffic offense, is also
6 considered a previous conviction for violation of this
7 section. However, in satisfaction of the fine imposed pursuant
8 to this section, the court may, upon a finding that the
9 defendant is financially unable to pay either all or part of
10 the fine, order that the defendant participate for a specified
11 additional period of time in public service or a community
12 work project in lieu of payment of that portion of the fine
13 which the court determines the defendant is unable to pay. In
14 determining such additional sentence, the court shall consider
15 the amount of the unpaid portion of the fine and the
16 reasonable value of the services to be ordered; however, the
17 court may not compute the reasonable value of services at a
18 rate less than the federal minimum wage at the time of
19 sentencing.

20 Section 2. This act shall take effect upon becoming a
21 law.

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