

1                   A bill to be entitled  
2           An act relating to driving under the influence;  
3           creating s. 316.19395, F.S.; requiring each judicial  
4           circuit to establish a Driving Under the Influence  
5           Diversion Pilot Program; providing the purpose of the  
6           pilot program; requiring the state attorney of the  
7           judicial circuit to develop and operate the pilot  
8           program; requiring the policies and procedures of the  
9           pilot program to be published on the website of the  
10          office of the state attorney; providing eligibility  
11          requirements; defining the term "conviction";  
12          providing pilot program requirements; requiring a  
13          person who completes the pilot program to be offered a  
14          certain plea agreement; providing for withholding of  
15          adjudication; authorizing the state attorney to  
16          discharge a person who fails to complete the pilot  
17          program and pursue prosecution of driving under the  
18          influence; requiring annual reports to the Governor  
19          and Legislature; requiring the Department of Highway  
20          Safety and Motor Vehicles to establish a statewide  
21          database by a certain date; requiring monthly reports  
22          to the department; providing an effective date.

23  
24   Be It Enacted by the Legislature of the State of Florida:  
25

26 Section 1. Section 316.19395, Florida Statutes, is created  
 27 to read:

28 316.19395 Driving Under the Influence Diversion Pilot  
 29 Program.—

30 (1) DEVELOPMENT; IMPLEMENTATION; OPERATION.—A Driving  
 31 Under the Influence Diversion Pilot Program shall be established  
 32 in each judicial circuit for the purpose of offering a person  
 33 charged with a first offense of driving under the influence as  
 34 provided in s. 316.193 the opportunity to avoid a permanent  
 35 criminal history record associated with the offense while  
 36 ensuring the person receives substance abuse treatment if  
 37 necessary. The state attorney of the judicial circuit shall  
 38 develop the policies and procedures of the pilot program,  
 39 including program implementation and operation and the selection  
 40 of approved program providers. In developing such policies and  
 41 procedures, the state attorney shall consult local law  
 42 enforcement agency representatives, the public defender, and  
 43 local program providers. The state attorney of each judicial  
 44 circuit shall operate that circuit's pilot program. Each  
 45 judicial circuit shall publish the terms and conditions of the  
 46 pilot program on the website of the office of the state  
 47 attorney.

48 (2) ELIGIBILITY REQUIREMENTS.—

49 (a) A person charged with driving under the influence is  
 50 eligible for participation in the pilot program if he or she:

51        1. Has not been charged with a prior alcohol-related or  
52 drug-related criminal traffic offense, regardless of  
53 disposition.

54        2. Does not have a prior or pending felony conviction.

55        3. Has no more than two prior misdemeanor convictions.

56        4. Was not involved in a motor vehicle crash or accident  
57 relating to the charge of driving under the influence.

58        5. Was not, at the time of the offense, accompanied in the  
59 vehicle by a person under 18 years of age.

60        6. Did not, at the time of the offense, have a blood-  
61 alcohol level or breath-alcohol level of 0.20 or higher.

62        7. Has not previously participated in the pilot program.

63        (b) For purposes of this subsection, the term "conviction"  
64 means a determination of guilt which is the result of a plea or  
65 trial, regardless of whether adjudication is withheld or a plea  
66 of nolo contendere is entered.

67        (3) PILOT PROGRAM REQUIREMENTS.—

68        (a) A person who participates in the pilot program must do  
69 so for 12 months, during which period he or she may not possess  
70 or consume alcohol, illegal drugs, or prescription drugs not  
71 prescribed for him or her and must complete the following as  
72 administered by an approved program provider:

73        1. Fifty hours of community service if, at the time of the  
74 offense, the person had a blood-alcohol level or breath-alcohol  
75 level of 0.15 or lower.

76        2. Seventy-five hours of community service if, at the time  
77 of the offense, the person had a blood-alcohol level or breath-  
78 alcohol level higher than 0.15 but lower than 0.20 or did not  
79 provide a blood or breath sample.

80        3. A substance abuse course conducted by a DUI program  
81 licensed by the department under s. 322.292, which shall include  
82 a psychosocial evaluation of the person, and any substance abuse  
83 treatment required by such program.

84        4. A victim's impact panel session, if such a panel exists  
85 within the judicial circuit, or a victim's impact class.

86        (b) A person who participates in the pilot program must  
87 pay all fines and standard costs imposed by the judicial  
88 circuit.

89        (c) Upon commencement of the person's participation in the  
90 pilot program, all motor vehicles that are individually or  
91 jointly leased or owned and routinely operated by the person  
92 shall be impounded or immobilized for a period of 10 days.

93        (d)1. After the impoundment or immobilization period  
94 required by paragraph (c), the person shall have installed on  
95 all such vehicles, and must successfully use, an ignition  
96 interlock device approved by the department in accordance with  
97 s. 316.1938 for a period of:

98        a. Ninety days if, at the time of the offense, the person  
99 had a blood-alcohol level or breath-alcohol level of 0.15 or  
100 lower.

101 b. One hundred eighty days if, at the time of the offense,  
102 the person had a blood-alcohol level or breath-alcohol level  
103 higher than 0.15 but lower than 0.20 or did not provide a blood  
104 or breath sample.

105 2. If the person claims inability to pay for an ignition  
106 interlock device and:

107 a. The person's family income is at or below 100 percent  
108 of the federal poverty level as documented by written order of  
109 the court, the regular monthly leasing fee charged to all  
110 customers by the ignition interlock device provider shall be  
111 discounted for that person by 50 percent.

112 b. The person's family income is greater than 100 percent  
113 but at or below 149 percent of the federal poverty level as  
114 documented by written order of the court, the regular monthly  
115 leasing fee charged to all customers by the ignition interlock  
116 device provider shall be discounted for that person by 25  
117 percent.

118 3. A person who qualifies for a discounted monthly leasing  
119 fee pursuant to subparagraph 2. is not required to pay the cost  
120 of installation or deinstallation of the ignition interlock  
121 device.

122 (4) COMPLETION OF PILOT PROGRAM.—If a person complies with  
123 this section and successfully completes the pilot program, he or  
124 she shall be offered an agreement providing for a plea of guilty  
125 to the offense of reckless driving as provided in s. 316.192. A

126 person who accepts such plea agreement is not subject to the  
127 provisions of this chapter relating to the offense of driving  
128 under the influence, and the trial judge shall withhold  
129 adjudication for reckless driving notwithstanding s. 316.656.

130 (5) FAILURE TO COMPLETE PILOT PROGRAM.—If a person does  
131 not comply with this section and fails to successfully complete  
132 the pilot program, the state attorney operating the pilot  
133 program may discharge the person from the program and pursue  
134 prosecution of the offense of driving under the influence.

135 (6) ANNUAL REPORT.—By October 1 of each year beginning in  
136 2021, the state attorney of each judicial circuit shall report  
137 the results of the pilot program to the Governor, the President  
138 of the Senate, and the Speaker of the House of Representatives.  
139 The report shall include:

140 (a) The number of cases diverted from prosecution of  
141 driving under the influence.

142 (b) The number of persons who successfully completed the  
143 pilot program.

144 (c) The number of persons who failed to successfully  
145 complete the pilot program and were discharged from the program.

146 (d) The number of persons who successfully completed the  
147 pilot program who were later charged with another alcohol-  
148 related or drug-related criminal traffic offense.

149 (e) The number of persons who failed to successfully  
150 complete the pilot program who were later charged with another

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151 | alcohol-related or drug-related criminal traffic offense.

152 |       (7) STATEWIDE DATABASE.—By July 1, 2023, the department  
153 | shall establish a statewide database of persons who participate  
154 | in the pilot program. Each judicial circuit must provide monthly  
155 | reports to the department of the number of persons who have  
156 | elected to participate in the pilot program.

157 |       Section 2. This act shall take effect July 1, 2020.