



Idaho Prosecuting Attorneys Association, Inc.

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Dear Committee Members,

The Idaho Prosecuting Attorney's Association respectfully requests that you vote "No" on HB 78.

HB 78 has been presented as a bill that will make Idaho's roads safer. Nothing could be further from the truth. HB 78 places DUI diversion in the Court's jurisdiction with no clear understanding of how these diversions will be run, who will supervise offenders in these programs, or what criteria will be used throughout the state to decide when a diversion is complete. While HB 78 includes minimum standards, it is silent on many technical details and will lead to different treatment of offenders around the state making Idaho's roads less safe.

Idaho's prosecutors believe HB 78 sends the wrong message to the public regarding driving under the influence. Idaho's Prosecutors overwhelmingly oppose HB 78 (see attached county-by-county report). For decades, many have fought to bring to light the seriousness of driving under the influence and how it destroys innocent lives. According to the National Highway Traffic Safety Administration (NHTSA), the average alcohol impaired driver has driven impaired over 80 times before first arrest. NHTSA has long discouraged the use of DUI diversion programs based upon available research disclosing negative effects. Driving under the influence offenders are without a doubt one of the most serious public safety risks to a community.

HB 78 - DUI diversion - allows offenders to escape accountability and puts the public at risk because the offender does not enter a guilty plea. NHTSA reports repeat offenders are eight times more likely to be in fatal crashes. Judges are entitled to have the benefit of an accurate record showing an offender's history so they can appropriately protect the public and provide the offender with the best opportunity at rehabilitation.

HB 78 will likely result in costly litigation. Decisions to allow impaired drivers to enter a diversion program are not subject to appeal, a defense attorney to represent them, nor other legal protections. The likelihood of litigation increases while the public's trust in the system decreases. Idaho's prosecutors have researched how this issue has been handled in other states, where guilty pleas are not required for diversions, and have serious questions about the use of diverted DUIs for enhancement. For example, Oregon's original DUI diversion statute did not require a guilty plea and it created so many legal issues and public safety concerns that their legislature amended their diversion statute to require a guilty plea.

In addition, not requiring a guilty plea will make it nearly impossible for a prosecutor's office to move forward with a DUI case if an offender fails diversion due to unavailable witnesses and spoliation of evidence. Finally, we do not see the urgency of allowing diverted DUI's to avoid a guilty plea given Idaho currently allows for withheld judgements which can soften the consequences a DUI has on a person who is truly a one-time offender.

Idaho's current driving under the influence laws hold DUI offenders accountable while taking into consideration rehabilitation. Idaho's Courts already have an option to give an offender a withheld judgment which has the same desired result as HB 78.

We, therefore, recommend that legislators vote against HB 78.

DUI Diversion Bill: County by County Votes

District:	County:	Elected:	Position:	District:	County:	Elected:	Position:
4	Ada	Jan Bennetts	Oppose	3	Gem	Erick Thomson	Oppose
3	Adams	Chris Boyd	Oppose	5	Gooding	Matthew Pember	Oppose
6	Bannock	Stephen Herzog	Oppose	2	Idaho	Kirk MacGregor	Oppose
6	Bear Lake	Adam McKenzie	Oppose	7	Jefferson	Paul Butikofer	Oppose
1	Benewah	Brian Thie	Oppose	5	Jerome	Mike Seib	Oppose
7	Bingham	Paul Rogers	Oppose	1	Kootenai	Barry McHugh	Oppose
5	Blaine	Jim Thomas	Oppose	2	Latah	Bill Thompson	Oppose
4	Boise	Adam Strong	Oppose	7	Lemhi	Bruce Withers	Oppose
1	Bonner	Louis Marshall	Oppose	2	Lewis	Zachary Pall	Oppose
7	Bonneville	Daniel Clark	Oppose	5	Lincoln	E. Scott Paul	Oppose
1	Boundary	Jack Douglas	Oppose	7	Madison	Sid D. Brown	Oppose
7	Butte	Steve Stephens	Oppose	5	Minidoka	Lance Stevenson	Oppose
5	Camas	Matthew Pember	Oppose	2	Nez Perce	Justin Coleman	Oppose
3	Canyon	Bryan Taylor	Abstain	6	Oneida	Cody Brower	Oppose
	Supports Concept/Opposes as written			3	Owyhee	Doug Emery	Oppose
6	Caribou	S. Doug Wood	Oppose	3	Payette	Ross Pittman	Support
5	Cassia	Doug Abenroth	Oppose	6	Power	Anson Call	Oppose
7	Clark	Exempt	Non-Member	1	Shoshone	Keisha Oxendine	Oppose
2	Clearwater	Clayne Tyler	Oppose	7	Teton	Billie Siddoway	Oppose
7	Custer	Exempt	Non-Member	5	Twin Falls	Grant Loeb	Oppose
4	Elmore	Daniel Page	Oppose	4	Valley	Carol Brockman	Oppose
6	Franklin	Vic Pearson	Oppose	3	Washington	Delton Walker	Undecided
7	Fremont	Marcia Murdoch	Oppose		Supports Concept/Opposes as written		

Oppose:	Support:	Abstain:	Undecided:	Non-Member:
39	1	1	1	2