



SPONSOR: Sen. Hansen & Rep. Mitchell
Sen. Lopez; Reprs. Baumbach, Briggs King

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE BILL NO. 184

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO DRIVING A VEHICLE WHILE UNDER THE INFLUENCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 4177, Title 21 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 4177. Driving a vehicle while under the influence or with a prohibited alcohol or drug content; evidence; arrests;
4 and penalties.

5 (d) Whoever is convicted of a violation of subsection (a) of this section shall:

6 (9) Any minimum sentence suspended pursuant to paragraph (d)(3), (d)(4), or (d)(8) of this section shall be
7 upon the condition that the offender shall complete a program of supervision which shall include:

8 a. A drug and alcohol abstinence program requiring that the offender maintain a period of not less than 90
9 consecutive days of sobriety as measured by a transdermal continuous alcohol monitoring device or through
10 periodic breath or urine analysis. In addition to such monitoring, the offender shall participate in periodic, random
11 breath or urine analysis during the entire period of supervision.

12 b. An intensive inpatient or outpatient drug and alcohol treatment program for a period of not less than 3
13 months.

14 1. Such treatment and counseling may be completed. The Court may order the required drug and
15 alcohol treatment program be commenced while an offender is serving a ~~Level V, Level IV, Level III, or~~
16 ~~Level II sentence.~~ Level V, Level IV, Level III, or Level II sentence.

17 2. Notwithstanding paragraph (d)(9)b.1. of this section, the offender must complete the required drug
18 and alcohol treatment program within 9 months from the date the offender is sentenced or from the date of
19 release following a Level V or Level IV sentence.

20 3. If an offender fails to complete the required drug and alcohol treatment program as required under
21 paragraph (d)(9)b.2. of this section, the Court shall impose the portion of the minimum sentence suspended by

22 the Court under paragraphs (d)(3), (d)(4), or (d)(8) of this section for the offender's participation in the
23 program.

24 4. On petition by the offender, or the Department of Correction, filed before the expiration of the 9-
25 month period under paragraph (d)(9)b.2. of this section, the Court may, for good cause shown, extend the 9-
26 month period to accommodate the completion of the required drug and alcohol treatment program.

SYNOPSIS

This Act clarifies Delaware's driving under the influence ("DUI") law related to intensive inpatient or outpatient drug and alcohol treatment for felony DUI offenders. The current law has resulted in differing interpretations regarding treatment; specifically, whether treatment must be completed while incarcerated (Level V) or at home confinement (Level IV), rather than at community supervision (Level III or Level II). This has resulted in extending incarceration for some offenders or requiring out-of-state offenders to reside in Delaware to complete the mandated drug and alcohol abstinence program and drug and alcohol treatment program under § 4177(d)(9) of Title 21.

Specifically, this Act permits the Superior Court to sentence felony DUI offenders to commence intensive treatment at any level of supervision, including community supervision. This Act also requires offenders to complete treatment within 9 months of the date of sentence or the date of release from Level V or Level IV, unless the Superior Court has granted the offender an extension for good cause. If an offender does not complete the treatment as required, the Superior Court must impose the portion of the minimum sentence suspended by the Court for the offender's participation in the program.

Author: Senator Hansen