

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Criminal Justice
2 Subcommittee

3 Representative Altman offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:
7 Section 1. Section 316.19395, Florida Statutes, is created to
8 read:

9 316.19395 Driving Under the Influence Model Diversion
10 Program.—

11 (1) PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—

12 Each judicial circuit may establish a Driving Under the
13 Influence Diversion Program to give eligible first time driving
14 under the influence offenders the opportunity to avoid a
15 permanent criminal history record associated with the offense
16 while ensuring offenders receive substance abuse treatment, when

Amendment No.

17 necessary. If established, the state attorney of each judicial
18 circuit shall operate the program and may develop the program's
19 policies and procedures, including program implementation,
20 operation, and selection of approved programming providers. If
21 the state attorney chooses to establish the program, the state
22 attorney shall consult representatives of local law enforcement
23 agencies, the public defender, and local programming providers
24 in developing the program's policies and procedures. The program
25 terms and conditions must be published on the website of the
26 office of the state attorney in each circuit.

27 (2) ELGIBILITY REQUIREMENTS.—A person charged with driving
28 under the influence is eligible for diversion program
29 participation if the person:

30 (a) Has no prior conviction for an alcohol-related or drug-
31 related criminal traffic offense.

32 (b) Has no prior felony conviction.

33 (c) Has no more than two prior misdemeanor convictions.

34 (d) Has not previously participated in a diversion program
35 for a driving under the influence charge.

36 (e) Was not involved in a motor vehicle crash or accident
37 relating to the driving under the influence charge.

38 (f) Was not, at the time of the offense, accompanied in the
39 vehicle by a person under the age of 18 years old.

40 (g) Did not, at the time of the offense, have a blood-
41 alcohol or breath-alcohol content of 0.20 or greater.

335733 - h1145-strikeall.docx

Published On: 1/31/2020 7:49:02 PM

Amendment No.

42 (h) Did not cause property damage or damage to another
43 person relating to the driving under the influence charge.

44
45 As used in this section, the term "conviction" means being
46 convicted or found guilty of, or entering a plea of guilty or
47 nolo contendere to, regardless of adjudication, a crime in any
48 jurisdiction.

49 (3) PROGRAM REQUIRMENTS.—A person must participate in the
50 diversion program for a minimum period of 12 months, during
51 which time he or she may not possess or consume alcohol, illegal
52 drugs, or prescription drugs not prescribed for him or her, and
53 must complete the following conditions administered by a program
54 provider approved by the state attorney:

55 (a) Fifty hours of community service if, at the time of the
56 offense, the participant had a blood-alcohol or breath-alcohol
57 content of 0.15 or lower;

58 (b) Seventy-five hours of community service if, at the time
59 of the offense, the participant had a blood-alcohol or breath-
60 alcohol content higher than 0.15 but lower than 0.20 or did not
61 provide a blood-alcohol or breath-alcohol sample.

62 (c) A substance abuse course conducted by a DUI program
63 licensed by the department under s. 322.292, which must include
64 a psychosocial evaluation of the participant, and any substance
65 abuse treatment required by such program;

Amendment No.

66 (d) A Victim Impact Class or a victim's impact panel
67 session or, if no such class or panel exists in the judicial
68 circuit, a department-approved driver improvement course
69 relating to the rights of vulnerable road users relative to
70 vehicles on the roadway under s. 322.0261(2);

71 (e) Vehicle impoundment or immobilization of all vehicles
72 that are individually or jointly leased or owned and routinely
73 operated by the participant for a period of 10 days; and

74 (f) One of the following conditions, chosen by the state
75 attorney, based on the participant's individual circumstances:

76 1. Installation of an ignition interlock device, approved
77 by the department in accordance with s. 316.1938, on all
78 vehicles that are individually or jointly leased or owned and
79 routinely operated by the participant for a period of at least
80 30 days; or

81 2. Wearing of a continuous transdermal alcohol monitoring
82 device or use of a mobile alcohol monitoring device or other
83 continuous alcohol monitoring device approved by a DUI program
84 licensed by the department under s. 322.292, for a period of at
85 least 30 days.

86
87 The Legislature encourages each judicial circuit to negotiate
88 with providers of alcohol monitoring devices to establish a
89 procedure for offsetting the cost of all or part of an ignition
90 interlock device, transdermal alcohol monitoring device, mobile

Amendment No.

91 alcohol monitoring device, or other continuous alcohol
92 monitoring device when a participant demonstrates a genuine
93 inability to pay for the device.

94 (4) COMPLETION OF PROGRAM REQUIREMENTS.—If a person
95 successfully completes the diversion program requirements, the
96 state attorney operating the program shall:

97 (a) Reduce the criminal charge of driving under the
98 influence to a charge of reckless driving, as provided in s.
99 316.192; and

100 (b) Allow the person to enter a plea to the charge of
101 reckless driving with adjudication withheld.

102 (5) EFFECT OF SUBSEQUENT DUI.—If after successfully
103 completing the diversion program a person is charged with a new
104 driving under the influence offense, the person shall be charged
105 for the new driving under the influence offense in the same
106 manner as if the person had a prior conviction for driving under
107 the influence under s. 316.193(1).

108 (6) FAILURE TO COMPLETE PROGRAM REQUIREMENTS.—If a person
109 fails to successfully complete the diversion program
110 requirements, the state attorney may discharge the person from
111 the program and prosecute the original offense.

112 (7) ANNUAL REPORT REQUIREMENTS.—By October 1, 2021, and on
113 October 1 each year thereafter, the state attorney of each
114 judicial circuit that establishes a diversion program shall
115 report the results of the program to the Governor, the President

335733 - h1145-strikeall.docx

Published On: 1/31/2020 7:49:02 PM

Amendment No.

116 of the Senate, and the Speaker of the House of Representatives.

117 The report shall include the total number of:

118 (a) Cases diverted from prosecution.

119 (b) Persons who successfully completed the program.

120 (c) Persons who failed to successfully complete the program
121 and were discharged from participation.

122 (d) Persons who successfully completed the program and were
123 later charged with another alcohol-related or drug-related
124 criminal traffic offense.

125 (e) Persons who failed to successfully complete the program
126 and were later charged with another alcohol-related or drug-
127 related criminal traffic offense.

128 Section 2. Paragraphs (b) and (c) of subsection (2) of
129 section 316.193, Florida Statutes are renumbered as paragraphs
130 (c) and (d), and new paragraph (b) is added to read:

131 (2)

132 (b) Any person who successfully completes a diversion
133 program under s. 316.19395, F.S., and is thereafter charged with
134 a new driving under the influence offense shall be charged for
135 the new offense in the same manner as if the person had a prior
136 conviction for driving under the influence.

137 Section 3. This act shall take effect October 1, 2020.

138 -----

139 **T I T L E A M E N D M E N T**

140 Remove everything before the enacting clause and insert:

335733 - h1145-strikeall.docx

Published On: 1/31/2020 7:49:02 PM

Amendment No.

141 An act relating to driving under the influence diversion
142 programs; creating s. 316.19395, F.S.; encouraging judicial
143 circuits to implement a Driving Under the Influence Diversion
144 Program; providing guidelines for establishing a diversion
145 program; specifying the state attorney of the judicial circuit
146 shall operate the program; providing for program eligibility;
147 requiring the program to provide certain services; requiring a
148 participant to complete specified program requirements;
149 providing other diversion program requirements; encouraging
150 judicial circuits to negotiate with providers of alcohol
151 monitoring devices to offset costs for indigent persons;
152 requiring a reduced charge to reckless driving and a withhold of
153 adjudication for a participant who successfully completes the
154 program; authorizing the state attorney of the judicial circuit
155 to prosecute an offender who fails to successfully complete
156 program requirements; directing the state attorney to make a
157 report to the Governor and the Legislature; amending s. 316.193,
158 F.S.; providing that a person's new driving under the influence
159 offense after successful program completion shall be charged as
160 though the person had a prior driving under the influence
161 conviction; providing an effective date.