

## **BILL ANALYSIS**

C.S.S.B. 191  
By: Carona  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Following the arrest of a driver for the offenses of Driving While Intoxicated, Intoxication Assault, or Intoxication Manslaughter, the suspect's driver's license is suspended if the driver either refused to consent to the taking of a blood or breath specimen or gave a specimen that exceeded a blood alcohol content of .08. Under current law a challenge of the suspension is pursued by the defendant through a state administrative hearing process, even though the issues to be resolved arise solely from the facts that gave rise to the arrest.

C.S.S.B. 191 would eliminate the state administrative license revocation program from the Department of Public Safety and return the forum for the challenge of a license suspension back to the county court where the criminal case is pending. Having a concurrent administrative forum for the litigation of the issue of the license suspension, separate and apart from the criminal court, is costly and inefficient. The criminal court is already possessed of the relevant documents relating to the resolution of the issue, which is whether there was probable cause for the arrest, and whether the suspect refused the test, or whether the suspect exceeded the blood alcohol level where a test was administered.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 191 amends the Transportation Code to eliminate the state administrative license revocation program from the Department of Public Safety (DPS) and return the forum for the challenge of a license suspension back to the county court where the criminal case is pending. The bill makes the necessary procedural changes to remove the responsibility for revocation due to a failure to pass a test for intoxication and for refusal to consent to the taking of a blood or breath specimen from DPS to a county court.

Furthermore, if a county possesses a certified breath alcohol testing program but does not utilize the services of a technician employed by DPS, then DPS must remit a portion of the penalty to the county.

### **EFFECTIVE DATE**

January 1, 2004.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute differs from the engrossed bill by eliminating the state administrative license revocation program from the Department of Public Safety (DPS) and returning the forum for the challenge of a license suspension back to the county court where the criminal case is pending. The substitute makes the necessary procedural changes to remove the responsibility for revocation due to a failure to pass a test for intoxication and for refusal to consent to the taking of a blood or breath specimen from DPS to a county court. The substitute removes from the engrossed bill language which increased the penalty amount assessed for not

passing an intoxication test from \$125 to \$140 which a person must pay in order to have their driver's license reinstated. The substitute also changes the effective date from September 1, 2003, to January 1, 2004.