

January

SEN. J. 1982

SENATE FILE 2045
BY ROSENBERG

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to certain alcohol-related offenses by
2 establishing a reality education alcohol prevention program
3 and providing for the charging of fees.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SF 2045

1 Section 1. NEW SECTION. 321J.23 LEGISLATIVE FINDINGS.

2 The general assembly finds and declares as follows:

3 1. Drivers often do not realize the consequences of
4 drinking alcohol or using other drugs, and driving a motor
5 vehicle.

6 2. Prompt intervention is needed to protect society,
7 including drivers, from death or serious long-term injury.

8 3. The conviction of a driver for operating while
9 intoxicated identifies that person as a risk to the health and
10 safety of others, as well as to the intoxicated driver.

11 4. Close observation of the effects on others of alcohol
12 and drug use by an intoxicated driver convicted of operating
13 while intoxicated may have a marked effect on recidivism and
14 should therefore be encouraged by the courts.

15 5. The reality education alcohol prevention program
16 provides guidelines for the operation of an intensive program
17 to discourage recidivism.

18 Sec. 2. NEW SECTION. 321J.24 COURT-ORDERED VISITATION
19 FOR OFFENDERS -- IMMUNITY FROM LIABILITY.

20 1. As used in this section, unless the context otherwise
21 requires:

22 a. "Appropriate victim" means a victim whose condition
23 demonstrates the results of a motor vehicle accident involving
24 drinking drivers without being excessively traumatic to the
25 participant, as determined by the tour supervisor.

26 b. "Participant" means a person ordered by the court to
27 participate in the reality education alcohol prevention
28 program.

29 c. "Program" means the reality education alcohol
30 prevention program.

31 d. "Program coordinator" means a person appointed by the
32 court to coordinate the person's participation in the program.

33 e. "Tour supervisor" means a person selected by a
34 participant's program coordinator to supervise a tour.

35 2. A reality education alcohol prevention program is

1 established. Upon a conviction or adjudication for a
2 violation of section 321J.2, or the entry of a deferred
3 judgment concerning a violation of section 321J.2, the court
4 or juvenile court, with the consent of the defendant or
5 delinquent child, may order a defendant or delinquent child
6 who is sixteen years of age or older to participate in the
7 reality education alcohol prevention program as a term and
8 condition of probation or disposition in addition to any other
9 term or condition of probation or disposition required or
10 authorized by law. The court or juvenile court shall require
11 the defendant or delinquent child to abstain from consuming
12 any controlled substance, alcoholic liquor, wine, or beer
13 before reaching age twenty-one while participating in the
14 program.

15 3. The court or juvenile court shall consult with the
16 defendant or delinquent child and the defendant's or
17 delinquent child's attorney, if any, and may consult with any
18 other person, including but not limited to the defendant's or
19 delinquent child's parents or other family members, to
20 determine if the defendant or delinquent child is suitable for
21 the participation in the program, if the program will be
22 educational and meaningful to the defendant or delinquent
23 child, and if any physical, emotional, mental, or other
24 reasons exist which indicate that the program would be
25 inappropriate or would cause any injury to the defendant or
26 delinquent child.

27 4. The court or juvenile court shall appoint a program
28 coordinator, to coordinate all tours and select appropriate
29 tour supervisors for each tour. In addition, the program
30 coordinator shall ensure compliance by contacting each tour
31 supervisor following the completion of a tour.

32 5. The court or juvenile court may include a requirement
33 for a supervised educational tour by the defendant or
34 delinquent child to any or all of the following:

35 a. A hospital or other emergency medical care facility

1 which regularly receives victims of motor vehicle accidents,
2 to observe treatment of appropriate victims of motor vehicle
3 accidents involving intoxicated drivers, under the supervision
4 of a registered nurse, physician, paramedic, or emergency
5 medical technician.

6 b. A facility for the treatment of chemical substance
7 abuse as defined in section 125.2, under the supervision of
8 appropriately licensed medical personnel.

9 c. If approved by the state or county medical examiner, a
10 morgue or a similar facility to receive appropriate
11 educational material and instruction concerning damage caused
12 by the consumption of alcohol, under the supervision of the
13 county medical examiner or deputy medical examiner.

14 6. Prior to a tour, the program coordinator shall explain
15 and discuss the experiences which may be encountered during
16 the tour to the participant. If the program coordinator
17 determines at any time before or during a tour that the tour
18 may be traumatic or otherwise inappropriate for the
19 participant, the program coordinator shall terminate the tour
20 without prejudice to the participant.

21 7. The court or juvenile court may order a personal
22 conference after the tours with the participant, the
23 participant's attorney, if any, and any other persons if
24 available and deemed necessary by the court or juvenile court,
25 to discuss the experiences of the participant in the program
26 and how those experiences may impact the participant's
27 conduct. The court or juvenile court may order the
28 participant to write a report or letter concerning the
29 participant's experiences in the program.

30 8. Tour supervisors and facilities toured during the
31 program are not liable for any civil damages resulting from
32 injury to the participant, or civil damages caused by the
33 participant during or from any activities related to a tour,
34 except for willful or grossly negligent acts intended to, or
35 reasonably expected to result in, such injury or damage.

1 9. The chief judge of the judicial district shall
2 determine fees to be paid by participants in the program. The
3 judicial department shall use the fees to pay all costs
4 associated with the program. The court shall either require
5 the participant to pay the fee in order to participate in the
6 program, or may waive the fee or collect a lesser amount upon
7 a showing of cause.

8 EXPLANATION

9 The bill provides for the establishment of a reality
10 education alcohol prevention program. The bill authorizes the
11 court or juvenile court to impose, as a condition of probation
12 or disposition but with the consent of the defendant or
13 delinquent child, participation in the program if the person
14 is convicted or has received a deferred judgment relating to a
15 violation of Iowa Code section 321J.2, for operating a motor
16 vehicle while intoxicated, and the person is age 16 or older.
17 The bill requires that participants in the program under the
18 age of 21 must abstain from consuming alcoholic beverages as
19 part of the program.

20 This bill provides for the program to be administered by a
21 program coordinator appointed by the court. The program
22 coordinator will coordinate tours with appropriate emergency
23 care medical facilities, chemical substance abuse treatment
24 facilities, and morgues, and will select an appropriate tour
25 supervisor at the facility. The bill further requires that
26 the court may order participants to take part in a personal
27 conference with the court or juvenile court or to provide
28 written correspondence concerning each tour.

29 In addition, the tour supervisors and facilities are
30 granted immunity from civil liability for injury to or damages
31 caused by the participant, except for their willful or grossly
32 negligent actions.

33 The bill provides that the chief judge of each judicial
34 district shall determine fees to be paid by participants in
35 the program, which may be waived or reduced by the court upon

1 a showing of cause.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35