

Senate Judiciary Committee

Jennifer Horgan 271-7875

HB 179-FN, relative to enhanced penalties based on prior convictions for driving under the influence of drugs or liquor.

Hearing Date: April 27, 2021

Time Opened: 1:07 p.m.

Time Closed: 1:22 p.m.

Members of the Committee Present: Senators Carson, Gannon, French, Whitley and Kahn

Members of the Committee Absent : None

Bill Analysis: This bill establishes an enhanced penalty for persons convicted of negligent homicide who have prior convictions for driving under the influence of drugs or liquor.

Sponsors:
Rep. Abbas

Who supports the bill: Rep. Abbas; Honorable Dan Feltes; Beth Shaw; David Goldstein; Chief Tara Laurent, Greenland Police Department; Robert Krieger; Andrew Shagoury; Chief Joseph Hoebeke, Hollis Police Department; Brendan LaFlamme, Hollis Police Department; James Maloney, Hollis Police Department; Domenic Richardi; David Croft; Sheriff Mark Brave; Christopher Connelly; Joanne Connelly; Gary Fisher; Charles Pelton; Michael Bagan; John Simonds, Sullivan County; Edward Garone; Michael Bilodeau; Richard Krauss; Beth Sargent, NH Association of Chiefs of Police; Anthony Bean Burpee; Charles Reynolds; John Parsons; Emily Cobb; Timothy Carpenter; Bradley Osgood; Gregory Patten; David Noyes; Scott Lester; Gerald Lewis; Timothy Crowley; Eric Pauer; Peter Morency; William Wright; Joe Mahoney

Who opposes the bill: Patrick Sullivan

Summary of testimony presented in support:
Representative Abbas

- This is the same bill as SB743 from 2020.
- The bill establishes an enhanced penalty for persons convicted of negligent homicide who have prior convictions for driving under the influence.
- The section referring to the aggravated provision, specifically only applies to situations where the aggravated provision involved a collusion that resulted in serious bodily injury.

- If there is one prior conviction the penalty minimum is 10 years, but not more than 20.
- If a person has two convictions, then it can be 15 to 30 years.
- Deciding to move forward with the enhanced penalties is at the discretion of the prosecutor, who would have to notify the defendant.
- This bill is named for Tyler Shaw, who was 20 years old when he was killed by a drunk driver who had two prior convictions on his record and had an ignition interlock device that he had failed multiple times in the past.
- This will help deter individuals who continue to engage in behavior that is a threat even after serving their prior sentence.
- Senator French asked if this would apply to someone who is convicted of aggravated DWI and they hit a tree hurting themselves.
 - There are several circumstances that can invoke the aggravated provision. The enhanced sentencing would only be a situation that involved serious bodily injury, which could be interpreted to be an injury to oneself. It is at the discretion of the prosecutor, but it is not necessarily something that the court would accept. That scenario could that happen under this.
- Senator Kahn asked if a standard minimum sentencing for aggravated assault as a result of intoxicated driving exists.
 - Understands if it is a homicide it is seven years. Mr. Shaw's defendant got 6-12 years. Enhanced sentences currently fall under RSA 651:6, III(a) with 10 to 30 years.

Beth Shaw

- Shared the story of her son, Tyler Shaw, who was killed in April 2018 by a drunk driver, Joseph Leonard.
- Mr. Leonard served 6 years in prison for the death of Mr. Shaw, while having a history of drunk driving.
- Shared the history of Mr. Leonard's multiple drunk driving convictions.
- Mr. Leonard had an ignition interlock device and 6 months after it was removed, he killed Mr. Shaw while having a .16 alcohol content level.
- Mr. Leonard was not held accountable by the courts for his multiple past offenses.
- If Mr. Leonard had served time for one of his previous convictions, would that have changed his behavior?
- Shared sentences of convictions that did not result in a death that were much higher than the sentence Mr. Leonard received.
- The purpose of this bill is to adequately and appropriately sentence habitual offenders who take someone's life.

Summary of testimony presented in opposition:

None

jch

Date Hearing Report completed: April 30, 2021