



Department of the Secretary of State Bureau of Motor Vehicles

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JOINT STANDING COMMITTEE ON JUDICIARY

L.D. 1189 “An Act to Prohibit Arrest and Detention for Civil Violations and Require an Attorney for the State to Determine Whether to Charge a Class E Offense as a Civil Violation”

Testimony of Shenna Bellows, Secretary of State and
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Department of the Secretary of State

Friday, April 4, 2025

Senator Carney, Representative Kuhn, Members of the Judiciary Committee, I am pleased to provide testimony neither for nor against L.D. 1189 “An Act to Prohibit Arrest and Detention for Civil Violations and Require an Attorney for the State to Determine Whether to Charge a Class E Offense as a Civil Violation” and to provide you with information that may be useful to you.

While the Office of the Secretary of State supports the intentions behind this bill to reduce court backlogs and reduce the burden of criminal convictions where appropriate, we would ask that election-related crimes under Title 21-A be exempted. We do not consider it appropriate that district attorneys, as elected officials themselves, should be in a position to create civil violations in this realm where the legislature has chosen not to do so. We believe that the potential for conflict of interest and, at a minimum, the appearance of impropriety is significant.

The Bureau of Motor Vehicles likewise supports the bill’s intentions. Indeed, in the 131st Legislature, the Bureau worked with stakeholders to reclassify operating after suspension from a Class E crime to a traffic violation in certain specific situations. The resulting changes to Title 29-A, section 2412-A, added to a carefully considered delineation of situations where the operating after suspension offense can range from a traffic violation to a Class C crime. We have some concern that this proposal’s broad, sweeping approach to the reduction of classification of virtually all Class E crimes at the discretion of the individual district attorney will lead to disparities and confusion in the way that motor vehicle laws will be administered through the courts. We are also concerned that the bill as drafted introduces a significant lack of clarity that will be difficult for frontline staff to implement.

From an administrative perspective, the Bureau must remain compliant with federal requirements governing the accurate inclusion of offenses on the driving record. To do this, it is imperative that violations be reported in a manner that clearly identifies the offense that has been adjudicated. Currently, the Bureau receives abstracts of conviction that delineate the statutory section that has been violated. As this proposal would create civil violations that are not defined in statute, it is uncertain whether the new reports will provide sufficient clarity to allow the Bureau to meet its responsibilities. However this matter is resolved, it will require additional work and expense by the Bureau to develop appropriate

system coding to handle the new offenses. The new offenses would also need to be incorporated into the point system used to identify problem drivers.

Another consideration is the effect this proposal will have for the habitual offender statute, Title 29-A section 2551-A. That section of law identifies drivers who have accumulated three or more convictions or adjudications for distinct offenses within a five-year period and revokes their driving privilege for a three-year period. The list of distinct offenses identifies some offenses by general description, for instance, "operating without a license." In that case it would seemingly make no difference if the offense is reported as a traffic infraction or a Class E crime for purposes of the habitual offender determination. However, some offenses are identified according to a specific statutory section, such as "driving to endanger, in violation of section 2413." Because Title 29-A section 2413 identifies a Class E crime, presumably a traffic violation based on the same conduct would not be reported to us as a violation of section 2413. If that is the case, the lesser traffic infraction would perhaps not be an offense that is considered in the habitual offender determination. Greater clarity to ensure that the habitual offender statute is administered as intended is needed.

Finally, should you choose to implement this proposal, the Bureau would ask for an implementation date no sooner than July 1, 2026, to allow us adequate time to make the necessary programming changes.

Thank you for your time and consideration. If the committee has any questions, I'd be more than happy to answer them or conduct the appropriate research. I will be available for the work session.