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Senate Bill 33 (Law Enforcement Data)
House Criminal Justice Committee
Interested Party Testimony
Intervention in Lieu of Conviction
October 17, 2017

Good afternoon Chairman Manning, Vice Chair Rezabek, Ranking Member Celebreeze and members of the House Criminal Justice Committee. Thank you for the opportunity to offer testimony on an amendment that was added to Senate Bill 33 to allow courts to indefinitely continue eligible offenders on intervention in lieu of conviction (ILC).

Intervention in lieu of conviction is a tool that allows a prosecutor, upon the request of certain eligible offenders, to recommend to the court that an offender be ordered to comply with treatment rather than receive a criminal conviction. Eligible offenders are certain low level offenders who committed an offense while under the influence of drugs or alcohol, with a mental illness, with an intellectual disability, or as a victim of human trafficking. It requires the offender to first enter a guilty plea and waive the right to a speedy trial, the preliminary hearing, the time period within which the grand jury may consider an indictment, and arraignment. The court may then stay the proceedings and sets terms and conditions of compliance (e.g. participate in treatment and abstain from the use of illegal drugs and alcohol). If an offender fails to comply, the court enters the finding of guilty in accordance with the offender's plea and imposes an appropriate sanction.

There are two things in this process that are key. First, the prosecutor must recommend to the court that the offender be placed on ILC. By allowing the court to grant endless continuances no matter how many times an offender violates the terms and conditions of compliance, the amendment to SB 33 may have the perverse effect of discouraging prosecutors from recommending ILC at all. Prosecutors want to know that at some point, the offender's guilty plea will be entered and the offender will be convicted. Second, the failure of the offender to comply only requires the court to enter the finding of guilt and impose an *appropriate* sanction. Failure does not require the court to send the offender to prison. Judges already can and do place offenders on probation and continue them on probation multiple times in the face of violations. This is about a conviction so that the victim can feel like justice was served and so that the offender has a criminal record if another offense is committed down the road.

We respectfully request that this committee consider the impact of the amendment on victims, on public safety, and on offender accountability and work with us to, at a minimum, place some limits on these continuances.

I would be happy to answer any questions that you have.