



Reprinted  
February 24, 2007

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## HOUSE BILL No. 1617

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DIGEST OF HB 1617 (Updated February 23, 2007 12:14 pm - DI 107)

**Citations Affected:** IC 5-2; IC 9-30; noncode.

**Synopsis:** Ignition interlock devices. Establishes the ignition interlock fund. Provides that a court order granting probationary driving privileges to certain persons must prohibit the person from operating a motor vehicle unless the vehicle is equipped with an ignition interlock device. Reestablishes the sentencing policy study committee to evaluate sentencing laws and policies for an additional four years. Requires the committee to evaluate the current statutes regarding ignition interlock devices and other alternative technologies. Requires the committee to propose legislation if necessary.

**Effective:** July 1, 2007.

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**Orentlicher, Dvorak, Duncan**

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January 23, 2007, read first time and referred to Committee on Judiciary.  
February 19, 2007, amended, reported — Do Pass.  
February 23, 2007, read second time, amended, ordered engrossed.

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HB 1617—LS 7489/DI 116+



First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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## HOUSE BILL No. 1617

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A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-2-6.2 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2007]:

4 **Chapter 6.2. Ignition Interlock Fund**

5 **Sec. 1. As used in this chapter, "ignition interlock device" has**  
6 **the meaning set forth under IC 9-13-2-76.**

7 **Sec. 2. As used in this chapter, "institute" means the Indiana**  
8 **criminal justice institute established by IC 5-2-6-3.**

9 **Sec. 3. As used in this chapter, "local governmental entities" has**  
10 **the meaning set forth under IC 5-2-6-1.**

11 **Sec. 4. (a) The ignition interlock fund is established to provide**  
12 **local governmental entities with funds to assist with the**  
13 **administration costs associated with ignition interlock devices and**  
14 **costs associated with providing an ignition interlock device to an**  
15 **indigent person. The fund shall be administered by the institute**  
16 **and consists of any appropriations to the fund.**

17 **(b) The expenses of administering the fund shall be paid from**



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**money in the fund.**

**(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.**

**Sec. 5. The institute shall distribute money in the fund to local governmental entities in Indiana for the purpose of assisting local governmental entities with:**

**(1) administration costs associated with ignition interlock devices; and**

**(2) the costs associated with providing an ignition interlock device to an indigent person.**

**Sec. 6. The institute may adopt rules under IC 4-22-2 and guidelines to implement this chapter.**

SECTION 2. IC 9-30-5-16, AS AMENDED BY P.L.172-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) Except as provided in subsections (b) and (c) and section 10 of this chapter, the court may, in granting probationary driving privileges under this chapter, also order that the probationary driving privileges include the requirement that a person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(b) An order granting probationary driving privileges:

(1) under:

(A) ~~section 12(a) of this chapter; if the person has a previous conviction that occurred at least ten (10) years before the conviction under consideration by the court; or~~

(B) ~~section 12(c) of this chapter; or~~

(2) ~~to a person who has a prior unrelated conviction for an offense under this chapter of which the consumption of alcohol is an element;~~

**(3) to a person who was intoxicated as described in section 1 of this chapter and was involved in a motor vehicle accident; or**

**(4) to a person who had operated a vehicle with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:**

**(A) one hundred (100) milliliters of the person's blood; or**

**(B) two hundred ten (210) liters of the person's breath;**

must prohibit the person from operating a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. However, a court is not required to order the installation of an ignition interlock device for a person described in ~~subdivision any of subdivisions (1) or (2) through (4)~~ if the person is

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1 successfully participating in a court supervised alcohol treatment  
 2 program in which the person is taking disulfiram or a similar substance  
 3 that the court determines is effective in treating alcohol abuse. **A court**  
 4 **also is not required to order the installation of an ignition interlock**  
 5 **device for a person who is the subject of an order described in**  
 6 **subdivision (1)(A). If a court does not order the installation of an**  
 7 **ignition interlock device for a person who is the subject of an order**  
 8 **described in subdivision (1)(A), the court shall set forth why a**  
 9 **device is not appropriate.**

10 (c) A court may not order the installation of an ignition interlock  
 11 device on a vehicle operated by an employee to whom any of the  
 12 following apply:

- 13 (1) Has been convicted of violating section 1 or 2 of this chapter.
- 14 (2) Is employed as the operator of a vehicle owned, leased, or  
 15 provided by the employee's employer.
- 16 (3) Is subject to a labor agreement that prohibits an employee who  
 17 is convicted of an alcohol related offense from operating the  
 18 employer's vehicle.

19 SECTION 3. [EFFECTIVE JULY 1, 2007] (a) **As used in this**  
 20 **SECTION, "committee" refers to the sentencing policy study**  
 21 **committee established by subsection (c).**

22 (b) **The general assembly finds that a comprehensive study of**  
 23 **sentencing laws and policies is desirable in order to:**

- 24 (1) **ensure that sentencing laws and policies protect the public**  
 25 **safety;**
- 26 (2) **establish fairness and uniformity in sentencing laws and**  
 27 **policies;**
- 28 (3) **determine whether incarceration or alternative sanctions**  
 29 **are appropriate for various categories of criminal offenses;**  
 30 **and**
- 31 (4) **maximize cost effectiveness in the administration of**  
 32 **sentencing laws and policies.**

33 (c) **The sentencing policy study committee is established to**  
 34 **evaluate sentencing laws and policies as they relate to:**

- 35 (1) **the purposes of the criminal justice and corrections**  
 36 **systems;**
- 37 (2) **the availability of sentencing options; and**
- 38 (3) **the inmate population in department of correction**  
 39 **facilities.**

40 **If, based on the committee's evaluation under this subsection, the**  
 41 **committee determines changes are necessary or appropriate, the**  
 42 **committee shall make recommendations to the general assembly**

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1 for the modification of sentencing laws and policies and for the  
2 addition, deletion, or expansion of sentencing options.

3 (d) The committee shall do the following:

4 (1) Evaluate the existing classification of criminal offenses  
5 into felony and misdemeanor categories. In determining the  
6 proper category for each felony and misdemeanor, the  
7 committee shall consider, to the extent they have relevance,  
8 the following:

9 (A) The nature and degree of harm likely to be caused by  
10 the offense, including whether the offense involves  
11 property, irreplaceable property, a person, a number of  
12 persons, or a breach of the public trust.

13 (B) The deterrent effect a particular classification may  
14 have on the commission of the offense.

15 (C) The current incidence of the offense in Indiana.

16 (D) The rights of the victim.

17 (2) Recommend structures to be used by a sentencing court in  
18 determining the most appropriate sentence to be imposed in  
19 a criminal case, including any combination of imprisonment,  
20 probation, restitution, community service, or house arrest.  
21 The committee shall also consider the following:

22 (A) The nature and characteristics of the offense.

23 (B) The severity of the offense in relation to other offenses.

24 (C) The characteristics of the defendant that mitigate or  
25 aggravate the seriousness of the criminal conduct and the  
26 punishment deserved for that conduct.

27 (D) The defendant's number of prior convictions.

28 (E) The available resources and capacity of the department  
29 of correction, local confinement facilities, and community  
30 based sanctions.

31 (F) The rights of the victim.

32 The committee shall include with each set of sentencing  
33 structures an estimate of the effect of the sentencing  
34 structures on the department of correction and local facilities  
35 with respect to both fiscal impact and inmate population.

36 (3) Review community corrections and home detention  
37 programs for the purpose of:

38 (A) standardizing procedures and establishing rules for the  
39 supervision of home detainees; and

40 (B) establishing procedures for the supervision of home  
41 detainees by community corrections programs of adjoining  
42 counties.

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- 1           **(4) Determine the long range needs of the criminal justice and**
- 2           **corrections systems and recommend policy priorities for those**
- 3           **systems.**
- 4           **(5) Identify critical problems in the criminal justice and**
- 5           **corrections systems and recommend strategies to solve the**
- 6           **problems.**
- 7           **(6) Assess the cost effectiveness of the use of state and local**
- 8           **funds in the criminal justice and corrections systems.**
- 9           **(7) Recommend a comprehensive community corrections**
- 10          **strategy based on the following:**
- 11           **(A) A review of existing community corrections programs.**
- 12           **(B) The identification of additional types of community**
- 13           **corrections programs necessary to create an effective**
- 14           **continuum of corrections sanctions.**
- 15           **(C) The identification of categories of offenders who**
- 16           **should be eligible for sentencing to community corrections**
- 17           **programs and the impact that changes to the existing**
- 18           **system of community corrections programs would have on**
- 19           **sentencing practices.**
- 20           **(D) The identification of necessary changes in state**
- 21           **oversight and coordination of community corrections**
- 22           **programs.**
- 23           **(E) An evaluation of mechanisms for state funding and**
- 24           **local community participation in the operation and**
- 25           **implementation of community corrections programs.**
- 26           **(F) An analysis of the rate of recidivism of clients under**
- 27           **the supervision of existing community corrections**
- 28           **programs.**
- 29          **(8) Propose plans, programs, and legislation for improving the**
- 30          **effectiveness of the criminal justice and corrections systems.**
- 31          **(9) Evaluate the use of faith based organizations as an**
- 32          **alternative to incarceration.**
- 33          **(10) Study issues related to sex offenders, including:**
- 34           **(A) lifetime parole;**
- 35           **(B) GPS or other electronic monitoring;**
- 36           **(C) a classification system for sex offenders;**
- 37           **(D) recidivism; and**
- 38           **(E) treatment.**
- 39          **(11) Evaluate the current statutes concerning ignition**
- 40          **interlock devices and study issues related to ignition interlock**
- 41          **devices and other alternative technologies, such as secured**
- 42          **continuous remote alcohol monitors, that a court may order**

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as a condition to drive for a person convicted of operating a vehicle while intoxicated.

**(12) Propose legislation:**

**(A) to improve the current statutes concerning ignition interlock devices; and**

**(B) if necessary, permitting courts to utilize other alternative technologies, such as secured continuous remote alcohol monitors, that a court may order as a condition to drive for a person convicted of operating a vehicle while intoxicated.**

**(e) The committee may study other topics assigned by the legislative council or as directed by the committee chair. The committee may meet as often as necessary.**

**(f) The committee consists of twenty (20) members appointed as follows:**

**(1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.**

**(2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.**

**(3) The chief justice of the supreme court or the chief justice's designee.**

**(4) The commissioner of the department of correction or the commissioner's designee.**

**(5) The director of the Indiana criminal justice institute or the director's designee.**

**(6) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.**

**(7) The executive director of the public defender council of Indiana or the executive director's designee.**

**(8) One (1) person with experience in administering community corrections programs, appointed by the governor.**

**(9) One (1) person with experience in administering probation programs, appointed by the governor.**

**(10) Two (2) judges who exercise juvenile jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.**

**(11) Two (2) judges who exercise criminal jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.**

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- 1           **(12) One (1) board certified psychologist or psychiatrist who**  
 2           **has expertise in treating sex offenders, appointed by the**  
 3           **governor to act as a nonvoting advisor to the committee.**  
 4           **(g) The chairman of the legislative council shall appoint a**  
 5           **legislative member of the committee to serve as chair of the**  
 6           **committee. Whenever there is a new chairman of the legislative**  
 7           **council, the new chairman may remove the chair of the committee**  
 8           **and appoint another chair.**  
 9           **(h) If a legislative member of the committee ceases to be a**  
 10           **member of the chamber from which the member was appointed,**  
 11           **the member also ceases to be a member of the committee.**  
 12           **(i) A legislative member of the committee may be removed at**  
 13           **any time by the appointing authority who appointed the legislative**  
 14           **member.**  
 15           **(j) If a vacancy exists on the committee, the appointing**  
 16           **authority who appointed the former member whose position is**  
 17           **vacant shall appoint an individual to fill the vacancy.**  
 18           **(k) The committee shall submit:**  
 19               **(1) an interim report of the results of its study to the**  
 20               **legislative council before November 1, 2008; and**  
 21               **(2) a final report of the results of its study to the legislative**  
 22               **council before November 1, 2010.**  
 23           **The interim and final reports must be in an electronic format**  
 24           **under IC 5-14-6.**  
 25           **(l) The Indiana criminal justice institute shall provide staff**  
 26           **support to the committee.**  
 27           **(m) Each member of the committee is entitled to receive the**  
 28           **same per diem, mileage, and travel allowances paid to individuals**  
 29           **who serve as legislative and lay members, respectively, of interim**  
 30           **study committees established by the legislative council.**  
 31           **(n) The affirmative votes of a majority of the voting members**  
 32           **appointed to the committee are required for the committee to take**  
 33           **action on any measure, including the final report.**  
 34           **(o) Except as otherwise specifically provided by this act, the**  
 35           **committee shall operate under the rules of the legislative council.**  
 36           **All funds necessary to carry out this act shall be paid from**  
 37           **appropriations to the legislative council and legislative services**  
 38           **agency.**  
 39           **(p) This SECTION expires December 31, 2010.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1617, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 16, delete "of:" and insert "**of**".

Page 1, delete line 17.

Page 2, line 1, delete "(2)".

Page 1, run in line 16 through page 2, line 1.

Page 2, delete lines 15 through 42.

Delete page 3.

Page 4, delete lines 1 through 33.

Page 5, line 5, strike "or".

Page 5, between lines 8 and 9, begin a new line block indented and insert:

**"(3) to a person who was intoxicated as described in section 1 of this chapter and was involved in a motor vehicle accident; or**

**(4) to a person who had operated a vehicle with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:**

**(A) one hundred (100) milliliters of the person's blood; or**

**(B) two hundred ten (210) liters of the person's breath;"**.

Page 5, line 13, strike "subdivision" and insert "**any of subdivisions**".

Page 5, line 13, strike "or (2)" and insert "**through (4)**".

Page 5, line 16, after "abuse." insert "**A court also is not required to order the installation of an ignition interlock device for a person described in subdivision (1). If a court does not order the installation of an ignition interlock device for a person described in subdivision (1), the court shall set forth why a device is not appropriate.**".

Page 5, delete lines 26 through 28.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1617 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 6, nays 2.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1617 be amended to read as follows:

Page 3, after line 17, begin a new paragraph and insert:

"SECTION 3. [EFFECTIVE JULY 1, 2007] (a) As used in this SECTION, "committee" refers to the sentencing policy study committee established by subsection (c).

(b) The general assembly finds that a comprehensive study of sentencing laws and policies is desirable in order to:

- (1) ensure that sentencing laws and policies protect the public safety;
- (2) establish fairness and uniformity in sentencing laws and policies;
- (3) determine whether incarceration or alternative sanctions are appropriate for various categories of criminal offenses; and
- (4) maximize cost effectiveness in the administration of sentencing laws and policies.

(c) The sentencing policy study committee is established to evaluate sentencing laws and policies as they relate to:

- (1) the purposes of the criminal justice and corrections systems;
- (2) the availability of sentencing options; and
- (3) the inmate population in department of correction facilities.

If, based on the committee's evaluation under this subsection, the committee determines changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.

(d) The committee shall do the following:

- (1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:
  - (A) The nature and degree of harm likely to be caused by the offense, including whether the offense involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.
  - (B) The deterrent effect a particular classification may have on the commission of the offense.

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(C) The current incidence of the offense in Indiana.

(D) The rights of the victim.

(2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including any combination of imprisonment, probation, restitution, community service, or house arrest.

The committee shall also consider the following:

(A) The nature and characteristics of the offense.

(B) The severity of the offense in relation to other offenses.

(C) The characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct.

(D) The defendant's number of prior convictions.

(E) The available resources and capacity of the department of correction, local confinement facilities, and community based sanctions.

(F) The rights of the victim.

The committee shall include with each set of sentencing structures an estimate of the effect of the sentencing structures on the department of correction and local facilities with respect to both fiscal impact and inmate population.

(3) Review community corrections and home detention programs for the purpose of:

(A) standardizing procedures and establishing rules for the supervision of home detainees; and

(B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.

(4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.

(5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.

(6) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.

(7) Recommend a comprehensive community corrections strategy based on the following:

(A) A review of existing community corrections programs.

(B) The identification of additional types of community corrections programs necessary to create an effective continuum of corrections sanctions.

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(C) The identification of categories of offenders who should be eligible for sentencing to community corrections programs and the impact that changes to the existing system of community corrections programs would have on sentencing practices.

(D) The identification of necessary changes in state oversight and coordination of community corrections programs.

(E) An evaluation of mechanisms for state funding and local community participation in the operation and implementation of community corrections programs.

(F) An analysis of the rate of recidivism of clients under the supervision of existing community corrections programs.

(8) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.

(9) Evaluate the use of faith based organizations as an alternative to incarceration.

(10) Study issues related to sex offenders, including:

(A) lifetime parole;

(B) GPS or other electronic monitoring;

(C) a classification system for sex offenders;

(D) recidivism; and

(E) treatment.

(11) Evaluate the current statutes concerning ignition interlock devices and study issues related to ignition interlock devices and other alternative technologies, such as secured continuous remote alcohol monitors, that a court may order as a condition to drive for a person convicted of operating a vehicle while intoxicated.

(12) Propose legislation:

(A) to improve the current statutes concerning ignition interlock devices; and

(B) if necessary, permitting courts to utilize other alternative technologies, such as secured continuous remote alcohol monitors, that a court may order as a condition to drive for a person convicted of operating a vehicle while intoxicated.

(e) The committee may study other topics assigned by the legislative council or as directed by the committee chair. The committee may meet as often as necessary.

(f) The committee consists of twenty (20) members appointed as

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follows:

(1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.

(3) The chief justice of the supreme court or the chief justice's designee.

(4) The commissioner of the department of correction or the commissioner's designee.

(5) The director of the Indiana criminal justice institute or the director's designee.

(6) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.

(7) The executive director of the public defender council of Indiana or the executive director's designee.

(8) One (1) person with experience in administering community corrections programs, appointed by the governor.

(9) One (1) person with experience in administering probation programs, appointed by the governor.

(10) Two (2) judges who exercise juvenile jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(11) Two (2) judges who exercise criminal jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(12) One (1) board certified psychologist or psychiatrist who has expertise in treating sex offenders, appointed by the governor to act as a nonvoting advisor to the committee.

(g) The chairman of the legislative council shall appoint a legislative member of the committee to serve as chair of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chair of the committee and appoint another chair.

(h) If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

(i) A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.

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(j) If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

(k) The committee shall submit:

(1) an interim report of the results of its study to the legislative council before November 1, 2008; and

(2) a final report of the results of its study to the legislative council before November 1, 2010.

The interim and final reports must be in an electronic format under IC 5-14-6.

(l) The Indiana criminal justice institute shall provide staff support to the committee.

(m) Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

(n) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including the final report.

(o) Except as otherwise specifically provided by this act, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this act shall be paid from appropriations to the legislative council and legislative services agency.

(p) This SECTION expires December 31, 2010."

(Reference is to HB 1617 as printed February 20, 2007.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1617 be amended to read as follows:

Page 3, line 5, delete "described in subdivision (1)." and insert "**who is the subject of an order described in subdivision (1)(A).**".

Page 3, line 7, delete "described in subdivision (1)," and insert "**who is the subject of an order described in subdivision (1)(A),**".

(Reference is to HB 1617 as printed February 20, 2007.)

ORENTLICHER

