

LB 271
Judiciary Committee
Testimony of Erin Ayad, Project Extra Mile
February 17, 2021

Good morning, Chairman Lathrop, and members of the committee. My name is Erin Ayad, and I am submitting written testimony in opposition of LB 271 on behalf of Project Extra Mile, a network of community partnerships working in Nebraska to prevent and reduce alcohol-related harms. Project Extra Mile opposes LB 271 due to the inclusion of pre-trial diversion eligibility for first-time, non-aggravated DUI offenders. We believe strongly that our state should continue to seek accountability through existing statutes to prevent the significant harms caused by drunk drivers.

Several studies have estimated that individuals may drive impaired between 200 and 2,000 times before being arrested (Rauch et al., 2010). It is imperative that drunk driving, including first-time arrests, be treated as a serious crime for which diversion is not an option. Diversion programs often lead to less severe punishment for drunk driving offenses and have a negative effect on deterrence. Limiting diversion programs is one of several policy recommendations identified by the National Academies of Sciences, Engineering, and Medicine (NASEM) in the 2018 report *Getting to Zero Alcohol-Impaired Driving Fatalities: A Comprehensive Approach to a Persistent Problem*.

Nebraska has a drunk driving problem, having been ranked as the second-worst state in the country with 955 episodes of self-reported alcohol-impaired driving per 1,000 population (Jewett et al., 2015). Extrapolating that data to our current population indicates approximately 1.85 million episodes of drunk driving occur every year. Over the past five years, our state has averaged 74 alcohol-related traffic fatalities annually (NDOT-HSO, 2019).

Project Extra Mile provided testimony in support of LB 335 during the last legislative session that would have authorized a 24/7 sobriety program. We recognize that South Dakota's 24/7 sobriety program has shown positive results that warrant additional consideration. At the county level, DUI arrests were reduced by 12 percent and domestic violence arrests fell by nine percent following adoption of the program, according to a RAND Corporation study.

However, leaving sanctions up to individual programs as LB 271 does is concerning given best practice recommendations around swift, certain, proportional, and consistent sanctions for all violations. Researchers who led a 2020 study evaluating North Dakota's program concluded that their results were generally consistent with South Dakota but identified the need for additional research through randomized controlled trials that vary time on the program, testing technology, and level of sanction (Midgette et al., 2020).

Project Extra Mile supports strengthening our DUI laws as well as enacting comprehensive evidence-based policies to prevent the loss of lives on our roads, including those identified in the National Academies report and by the Community Preventive Services Task Force (CPSTF). Researchers established a rating system for alcohol policies' impact to reduce binge drinking and alcohol-impaired driving (Nelson et al., 2013). The highest efficacy ratings were given to policies which limit price, increase alcohol taxes, and regulate alcohol availability.

Our laws should reflect that all DUIs are serious offenses. The truth is, there are many repeat offenders on our roadways that simply have not been caught. Our state needs to continue to send a strong message that DUIs will not be tolerated in our state. With that said, we urge the committee to indefinitely postpone LB 271.

Thank you for your consideration of our comments.