

By: Tinderholt

H.B. No. 2733

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to defendants restricted to the operation of a vehicle  
3 equipped with an ignition interlock device or required to submit to  
4 alcohol monitoring and establishing a central database of those  
5 defendants.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Chapter 2, Code of Criminal Procedure, is  
8 amended by adding Article 2.33 to read as follows:

9 Art. 2.33. REPORT REQUIRED FOR VIOLATION OF REQUIREMENT  
10 RELATING TO IGNITION INTERLOCK DEVICE OR OTHER ALCOHOL MONITORING  
11 DEVICE. A peace officer shall make a report to the Department of  
12 Public Safety if the peace officer has reasonable cause to believe  
13 that a person has violated:

14 (1) a condition of bond imposed under Article 17.441,  
15 a condition of community supervision imposed under Article 42A.408,  
16 a condition of holding an occupational driver's license under  
17 Section 521.246, Transportation Code, or a court order issued under  
18 Section 49.09(h), Penal Code, restricting the person to the  
19 operation of a motor vehicle equipped with an ignition interlock  
20 device; or

21 (2) a condition of bond imposed under Article  
22 17.44(a)(3) or a condition of community supervision imposed under  
23 Chapter 42A requiring the person to submit to alcohol monitoring  
24 through the use of an alcohol monitoring device other than an

1 ignition interlock device.

2 SECTION 2. The heading to Article 17.44, Code of Criminal  
3 Procedure, is amended to read as follows:

4 Art. 17.44. HOME CONFINEMENT, ELECTRONIC MONITORING, ~~[AND]~~  
5 DRUG TESTING, OR ALCOHOL MONITORING AS CONDITION.

6 SECTION 3. Article 17.44, Code of Criminal Procedure, is  
7 amended by amending Subsections (a), (c), and (e) and adding  
8 Subsections (f) and (g) to read as follows:

9 (a) A magistrate may require as a condition of release on  
10 bond that the defendant submit to:

11 (1) home confinement and electronic monitoring under  
12 the supervision of an agency designated by the magistrate; ~~[or]~~

13 (2) testing on a weekly basis for the presence of a  
14 controlled substance in the defendant's body; or

15 (3) alcohol monitoring through the use of an alcohol  
16 monitoring device other than an ignition interlock device, for a  
17 defendant charged with an offense under Section 49.04, 49.045,  
18 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code.

19 (c) The magistrate may revoke the bond and order the  
20 defendant arrested if the defendant:

21 (1) violates a condition of home confinement and  
22 electronic monitoring;

23 (2) refuses to submit to a test for controlled  
24 substances or submits to a test for controlled substances and the  
25 test indicates the presence of a controlled substance in the  
26 defendant's body; ~~[or]~~

27 (3) violates a condition of alcohol monitoring or

1 refuses to submit to alcohol monitoring; or

2 (4) fails to pay the reimbursement fee for electronic  
3 monitoring, ~~or~~ testing for controlled substances, or alcohol  
4 monitoring, if payment is ordered under Subsection (e) as a  
5 condition of bond and the magistrate determines that the defendant  
6 is not indigent and is financially able to make the payments as  
7 ordered.

8 (e) The cost of electronic monitoring, ~~or~~ testing for  
9 controlled substances, or alcohol monitoring under this article may  
10 be assessed as a reimbursement fee or ordered paid directly by the  
11 defendant as a condition of bond.

12 (f) A magistrate that requires the defendant to submit to  
13 alcohol monitoring under Subsection (a)(3) as a condition of bond  
14 or modifies the conditions of bond imposing the requirement shall  
15 submit to the Department of Public Safety for inclusion in the  
16 central database maintained by the department under Section  
17 411.02091, Government Code:

18 (1) a copy of the order for conditions of bond imposing  
19 the alcohol monitoring requirement or the order for modification of  
20 the conditions of bond, as applicable; and

21 (2) the defendant's name, date of birth, and driver's  
22 license number.

23 (g) If a defendant required to submit to alcohol monitoring  
24 as a condition of bond is convicted, placed on deferred  
25 adjudication community supervision, or acquitted, or if the charges  
26 with respect to the defendant are dismissed, the applicable court  
27 shall submit to the Department of Public Safety for inclusion in the

1 central database maintained by the department under Section  
2 411.02091, Government Code:

3 (1) a copy of the applicable order; and

4 (2) the defendant's name, date of birth, and driver's  
5 license number.

6 SECTION 4. Article 17.441, Code of Criminal Procedure, is  
7 amended by adding Subsections (e) and (f) to read as follows:

8 (e) A magistrate that restricts a defendant to the operation  
9 of a motor vehicle equipped with an ignition interlock device under  
10 Subsection (a) or modifies the conditions of bond imposing the  
11 restriction shall submit to the Department of Public Safety for  
12 inclusion in the central database maintained by the department  
13 under Section 411.02091, Government Code:

14 (1) a copy of the order for conditions of bond imposing  
15 the restriction or the order for modification of the conditions of  
16 bond, as applicable; and

17 (2) the defendant's name, date of birth, and driver's  
18 license number.

19 (f) If a defendant restricted to the operation of a motor  
20 vehicle equipped with an ignition interlock device as a condition  
21 of bond is convicted, placed on deferred adjudication community  
22 supervision, or acquitted, or if the charges with respect to the  
23 defendant are dismissed, the applicable court shall submit to the  
24 Department of Public Safety for inclusion in the central database  
25 maintained by the department under Section 411.02091, Government  
26 Code:

27 (1) a copy of the applicable order; and

1           (2) the defendant's name, date of birth, and driver's  
2 license number.

3           SECTION 5. Chapter 21, Code of Criminal Procedure, is  
4 amended by adding Article 21.32 to read as follows:

5           Art. 21.32. SUBMISSION TO CENTRAL DATABASE CONCERNING  
6 IGNITION INTERLOCK DEVICE OR ALCOHOL MONITORING CONDITION. A court  
7 on receiving an indictment or information alleging an offense for  
8 which the person was, as a condition of bond, restricted to the  
9 operation of a motor vehicle equipped with an ignition interlock  
10 device under Article 17.441 or required to submit to alcohol  
11 monitoring under Article 17.44(a)(3) shall submit to the Department  
12 of Public Safety for inclusion in the central database maintained  
13 by the department under Section 411.02091, Government Code, a  
14 statement indicating:

- 15                   (1) the defendant's name;  
16                   (2) the defendant's date of birth;  
17                   (3) the defendant's driver's license number; and  
18                   (4) whether the defendant remains subject to the  
19 restriction or requirement, as applicable.

20           SECTION 6. Chapter 42, Code of Criminal Procedure, is  
21 amended by adding Article 42.0184 to read as follows:

22           Art. 42.0184. NOTICE OF CERTAIN INTOXICATION OFFENSES  
23 PROVIDED BY CLERK OF COURT. (a) If a defendant is convicted of an  
24 offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07,  
25 or 49.08, Penal Code, the court in which the conviction is entered  
26 shall determine whether as a condition of bond the defendant was  
27 previously:

1           (1) restricted to the operation of a motor vehicle  
2 equipped with an ignition interlock device; or

3           (2) required to submit to alcohol monitoring through  
4 the use of an alcohol monitoring device other than an ignition  
5 interlock device.

6           (b) Not later than the fifth day after the date a defendant  
7 is convicted of an offense under Section 49.04, 49.045, 49.05,  
8 49.06, 49.065, 49.07, or 49.08, Penal Code, the clerk of the court  
9 in which the conviction is entered shall submit to the Department of  
10 Public Safety for inclusion in the central database maintained by  
11 the department under Section 411.02091, Government Code:

12                   (1) a copy of the order of conviction;

13                   (2) a statement indicating the defendant's name, date  
14 of birth, and driver's license number; and

15                   (3) whether, as a condition of community supervision  
16 or as otherwise ordered by the court as a result of the conviction,  
17 the defendant:

18                           (A) is restricted to the operation of a motor  
19 vehicle equipped with an ignition interlock device; or

20                           (B) is required to submit to alcohol monitoring  
21 through the use of an alcohol monitoring device other than an  
22 ignition interlock device.

23           SECTION 7. Article 42A.408, Code of Criminal Procedure, is  
24 amended by adding Subsection (i) to read as follows:

25           (i) A court that restricts a defendant to the operation of a  
26 motor vehicle equipped with an ignition interlock device under this  
27 article as a condition of community supervision or modifies the

1 order imposing the restriction as a condition of community  
2 supervision shall submit to the Department of Public Safety for  
3 inclusion in the central database maintained by the department  
4 under Section 411.02091, Government Code:

5 (1) a copy of the order imposing the restriction as a  
6 condition of community supervision or the order for modification of  
7 the conditions of community supervision, as applicable;

8 (2) the defendant's name, date of birth, and driver's  
9 license number; and

10 (3) if applicable, the date the restriction expires.

11 SECTION 8. Subchapter I, Chapter 42A, Code of Criminal  
12 Procedure, is amended by adding Article 42A.4085 to read as  
13 follows:

14 Art. 42A.4085. ALCOHOL MONITORING AS CONDITION OF COMMUNITY  
15 SUPERVISION; SUBMISSION TO CENTRAL DATABASE. (a) A judge  
16 requiring the defendant as a condition of community supervision to  
17 submit to alcohol monitoring through the use of an alcohol  
18 monitoring device other than an ignition interlock device or  
19 modifying an order requiring alcohol monitoring shall submit to the  
20 Department of Public Safety for inclusion in the central database  
21 maintained by the department under Section 411.02091, Government  
22 Code:

23 (1) a copy of the order imposing the alcohol  
24 monitoring as a condition of community supervision or the order  
25 modifying the conditions of community supervision, as applicable;

26 (2) the defendant's name, date of birth, and driver's  
27 license number; and

1           (3) if applicable, the date the requirement for  
2 alcohol monitoring expires.

3           (b) This article does not apply to an order restricting a  
4 defendant to operation of a motor vehicle equipped with an ignition  
5 interlock device under Article 42A.408.

6           SECTION 9. Subchapter A, Chapter 411, Government Code, is  
7 amended by adding Section 411.02091 to read as follows:

8           Sec. 411.02091. CENTRAL DATABASE OF DEFENDANTS RESTRICTED  
9 TO USE OF MOTOR VEHICLE EQUIPPED WITH IGNITION INTERLOCK DEVICE OR  
10 REQUIRED TO SUBMIT TO OTHER ALCOHOL MONITORING. (a) The department  
11 shall maintain a computerized central database containing  
12 information regarding defendants who are:

13           (1) restricted to the use of a motor vehicle equipped  
14 with an ignition interlock device under Article 17.441 or 42A.408,  
15 Code of Criminal Procedure, Section 49.09(h), Penal Code, or  
16 Section 521.246, Transportation Code; or

17           (2) required under Article 17.44(a)(3), Code of  
18 Criminal Procedure, or Chapter 42A of that code to submit to alcohol  
19 monitoring through the use of an alcohol monitoring device other  
20 than an ignition interlock device.

21           (b) The database must include:

22           (1) the name of each defendant restricted to the  
23 operation of a motor vehicle equipped with an ignition interlock  
24 device or required to submit to alcohol monitoring through the use  
25 of an alcohol monitoring device other than an ignition interlock  
26 device;

27           (2) the defendant's date of birth;

1           (3) the defendant's driver's license number; and

2           (4) if applicable, the date each restriction or  
3 requirement expires.

4           (c) The department shall remove a defendant's name from the  
5 central database under this section on the expiration of the  
6 ignition interlock restriction or alcohol monitoring requirement  
7 for that defendant or on other notification that the restriction or  
8 requirement has been terminated.

9           (d) The central database under this section must:

10           (1) provide the information in a format that allows a  
11 law enforcement agency to make the information available to a peace  
12 officer through a mobile data terminal; and

13           (2) promptly reflect any updated information,  
14 including modifications to a court's order, as necessary to ensure  
15 a defendant whose ignition interlock restriction or alcohol  
16 monitoring requirement has expired or been terminated is not  
17 indicated through the mobile data terminal as a person who is  
18 restricted to the operation of a motor vehicle equipped with an  
19 ignition interlock device or required to submit to alcohol  
20 monitoring through the use of an alcohol monitoring device other  
21 than an ignition interlock device.

22           (e) In lieu of creating a separate central database under  
23 this section, the department may comply with this section by  
24 incorporating the information regarding the defendant into an  
25 existing database or electronic record system maintained by the  
26 department, including by adding the information to the defendant's  
27 driver's license record, provided that the existing database or

1 system meets the requirements of Subsection (d).

2 (f) On receipt of a report under Article 2.33, Code of  
3 Criminal Procedure, the department shall consult the database to  
4 determine whether the person is subject to an ignition interlock  
5 restriction or an alcohol monitoring requirement. If the  
6 department determines that the person is subject to a restriction  
7 or requirement, the department shall notify the court that imposed  
8 the restriction or requirement of the suspected violation.

9 SECTION 10. Section 509.004(a), Government Code, is amended  
10 to read as follows:

11 (a) The division shall require each department to:

12 (1) keep financial and statistical records determined  
13 necessary by the division;

14 (2) submit a strategic plan and all supporting  
15 information requested by the division;

16 (3) present data requested by the division as  
17 necessary to determine the amount of state aid for which the  
18 department is eligible; and

19 (4) submit periodic financial audits and statistical  
20 reports to the division[~~, and~~

21 [~~(5) submit to the Department of Public Safety the~~  
22 ~~full name, address, date of birth, social security number, and~~  
23 ~~driver's license number of each person restricted to the operation~~  
24 ~~of a motor vehicle equipped with a device that uses a deep-lung~~  
25 ~~breath analysis mechanism to make impractical the operation of the~~  
26 ~~motor vehicle if ethyl alcohol is detected in the breath of the~~  
27 ~~restricted operator].~~

1 SECTION 11. Section 49.09(h), Penal Code, is amended to  
2 read as follows:

3 (h) This subsection applies only to a person convicted of a  
4 second or subsequent offense relating to the operating of a motor  
5 vehicle while intoxicated committed within five years of the date  
6 on which the most recent preceding offense was committed. The court  
7 shall enter an order that requires the defendant to have an ignition  
8 interlock [a] device installed, on each motor vehicle owned or  
9 operated by the defendant, that uses a deep-lung breath analysis  
10 mechanism to make impractical the operation of the motor vehicle if  
11 ethyl alcohol is detected in the breath of the operator, and that  
12 requires that before the first anniversary of the ending date of the  
13 period of license suspension under Section 521.344, Transportation  
14 Code, the defendant not operate any motor vehicle that is not  
15 equipped with an ignition interlock [~~that~~] device. The court shall  
16 require the defendant to obtain the ignition interlock device at  
17 the defendant's own cost on or before that ending date, require the  
18 defendant to provide evidence to the court on or before that ending  
19 date that the ignition interlock device has been installed on each  
20 appropriate vehicle, and order the ignition interlock device to  
21 remain installed on each vehicle until the first anniversary of  
22 that ending date. If the court determines the offender is unable to  
23 pay for the ignition interlock device, the court may impose a  
24 reasonable payment schedule not to extend beyond the first  
25 anniversary of the date of installation. The Department of Public  
26 Safety shall approve ignition interlock devices for use under this  
27 subsection. Section 521.247, Transportation Code, applies to the

1 approval of an ignition interlock [a] device under this subsection  
2 and the consequences of that approval. Failure to comply with an  
3 order entered under this subsection is punishable by contempt. For  
4 the purpose of enforcing this subsection, the court that enters an  
5 order under this subsection retains jurisdiction over the defendant  
6 until the date on which the ignition interlock device is no longer  
7 required to remain installed. A court that restricts a defendant to  
8 the operation of a motor vehicle equipped with an ignition  
9 interlock device under this subsection shall submit to the  
10 Department of Public Safety for inclusion in the central database  
11 maintained by the department under Section 411.02091, Government  
12 Code, a copy of the order imposing the restriction, the defendant's  
13 name, the defendant's date of birth, the defendant's driver's  
14 license number, and, if applicable, the date the restriction  
15 expires. To the extent of a conflict between this subsection and  
16 Subchapter I, Chapter 42A, Code of Criminal Procedure, this  
17 subsection controls.

18 SECTION 12. Section 521.246, Transportation Code, is  
19 amended by adding Subsection (g) to read as follows:

20 (g) A judge that restricts a person to the operation of a  
21 motor vehicle equipped with an ignition interlock device under  
22 Subsection (a) or modifies the order imposing the restriction shall  
23 submit to the Department of Public Safety for inclusion in the  
24 central database maintained by the department under Section  
25 411.02091, Government Code:

26 (1) a copy of the order imposing the restriction or the  
27 order for modification, as applicable;

1           (2) the defendant's name, date of birth, and driver's  
2 license number; and

3           (3) if applicable, the date the restriction expires.

4           SECTION 13. The Department of Public Safety of the State of  
5 Texas shall design and implement the central database required by  
6 Section 411.02091, Government Code, as added by this Act, not later  
7 than January 1, 2022.

8           SECTION 14. A peace officer is not required to make a report  
9 under Article 2.33, Code of Criminal Procedure, as added by this  
10 Act, before January 1, 2022.

11           SECTION 15. Articles 17.44, 17.441, and 42A.408, Code of  
12 Criminal Procedure, Section 49.09, Penal Code, and Section 521.246,  
13 Transportation Code, as amended by this Act, apply only to a  
14 magistrate, court, or judge that orders that a defendant be  
15 restricted to the operation of a motor vehicle equipped with an  
16 ignition interlock device or requires a defendant to submit to  
17 alcohol monitoring through the use of an alcohol monitoring device  
18 other than an ignition interlock device on or after January 1, 2022.  
19 A restriction or requirement ordered before January 1, 2022, is  
20 governed by the law in effect immediately before the effective date  
21 of this Act, and the former law is continued in effect for that  
22 purpose.

23           SECTION 16. Article 21.32, Code of Criminal Procedure, as  
24 added by this Act, applies only to an indictment or information  
25 provided under that article on or after January 1, 2022. An  
26 indictment or information provided under that article before  
27 January 1, 2022, is governed by the law in effect immediately before

1 the effective date of this Act, and the former law is continued in  
2 effect for that purpose.

3 SECTION 17. Articles 42.0184 and 42A.4085, Code of Criminal  
4 Procedure, as added by this Act, apply only to a magistrate, court,  
5 or judge that orders that a defendant be restricted to the operation  
6 of a motor vehicle equipped with an ignition interlock device or  
7 requires a defendant submit to alcohol monitoring through the use  
8 of an alcohol monitoring device other than an ignition interlock  
9 device on or after January 1, 2022. A restriction or requirement  
10 ordered before January 1, 2022, is governed by the law in effect  
11 immediately before the effective date of this Act, and the former  
12 law is continued in effect for that purpose.

13 SECTION 18. Section 509.004(a), Government Code, as amended  
14 by this Act, applies only to a restriction that is imposed on or  
15 after January 1, 2022. A restriction imposed before January 1,  
16 2022, is governed by the law in effect immediately before the  
17 effective date of this Act, and the former law is continued in  
18 effect for that purpose.

19 SECTION 19. This Act takes effect September 1, 2021.