

BILL ANALYSIS

Senate Research Center

S.B. 631
By: Harris
Criminal Justice
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Enrolled

DIGEST AND PURPOSE

Currently, there are some ambiguities relating to the suspension of sentence and the deferral of adjudication in cases involving certain misdemeanor traffic offenses. S.B. 631 clarifies that this law applies to both justices of the peace and municipal court judges, that judges retain full discretion to dismiss traffic offenses based on deferred disposition, except in certain offenses, that judges may impose a driving safety course on offenders, and that drivers retain the right to have a traffic offense dismissed, except in certain offenses. This bill also streamlines the procedures for taking a driving safety course, clarifies the costs of participating in the driving safety program and retains certain other conditions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 45.051, Code of Criminal Procedure, as follows:

- (a) Authorizes the judge, at the judge's discretion, to defer further proceedings without entering an adjudication of guilt and place the defendant on probation for a period not to exceed 180 days, on a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs. Provides that an order of deferral under this subsection terminates any liability under a bail bond or an appearance bond given for the charge.
- (b) Includes in the list of activities a judge is authorized to require of a defendant that the defendant complete an approved driving safety course and present to the court satisfactory evidence that the defendant has complied with each requirement imposed by the judge under this article. Creates Subsection 10 out of existing text. Makes conforming changes.
- (c) Requires the judge, rather than the justice, to dismiss the complaint on determining that the defendant has complied with the requirements imposed by the judge under this article.
- (d) Makes nonsubstantive and conforming changes.
- (e) Makes a nonsubstantive change.
- (f) Provides that this article does not apply to an offense to which Section 542.404 or 729.004(b), Transportation Code, applies or to a traffic offense committed by a person who holds a commercial driver's license.

SECTION 2. Amends Article 45.0511, Code of Criminal Procedure, as follows:

Art. 45.0511. New Heading: DRIVING SAFETY COURSE OR MOTORCYCLE OPERATOR COURSE DISMISSAL PROCEDURES. (a) Provides that this article

applies only to an alleged offense that falls within certain criteria.

- (b) Requires the judge to require the defendant to successfully complete an approved driving safety course or an approved course under the motorcycle operator training and safety program if the defendant falls within certain categories.
- (c) Requires the court to enter judgment on the defendant's plea of no contest or guilty at the time the plea is made, defer imposition of the judgment, and allow the defendant 90 days to successfully complete the approved driving safety course or motorcycle operator training course and present certain items to the court.
- (d) Authorizes the court to grant a request to take a driving safety course or a motorcycle operator training course under this article, notwithstanding Subsections (b)(2) and (3).
- (e) Makes nonsubstantive changes.
- (f) Authorizes the court to require a defendant to pay certain other fees, in addition to court costs and fees authorized or imposed by a law of this state and applicable to the offense.
- (g) Makes a conforming change.
- (i) Makes nonsubstantive and conforming changes.
- (j) Requires the court to enter an adjudication of guilt and impose sentence if the defendant fails to appear at the time and place stated in the notice under Subsection (i), or appears at the time and place stated in the notice but does not show good cause for the defendant's failure to comply with Subsection (c).
- (k) Adds to the list of items a defendant may present to the court after authorization by the court of an extension of time. Makes conforming and nonsubstantive changes.
- (l) Makes conforming and nonsubstantive changes.
- (m) and (n) No changes to these subsections.
- (o) Makes a conforming change.
- (p) Requires a court to advise a defendant charged with a misdemeanor under Section 472.022 (Obeying Warning Signs), Transportation Code, Title 7C, Transportation Code, or section 729.001(a) (3) (Operation of Motor Vehicle by Minor in Violation of Traffic Laws; Offense), Transportation Code, of certain rights. Deletes certain sections and adds other sections of the Transportation Code relating to charges against a defendant to which the right to complete a course does not apply.
- (q) Requires that a notice to appear issued for an offense to which this article applies to inform a defendant charged with an offense under Section 472.022, Transportation Code, an offense under Title 7C, Transportation Code, or an offense under Section 729.001(a)(3), Transportation Code, committed while operating a motor vehicle of the defendant's right to complete a driving safety course or, if the offense was committed while operating a motorcycle, of the defendant's right to complete a motorcycle operator training course. Requires the notice to read substantially as follows, "You may be able to require that this charge be dismissed by successfully completing a driving safety course or a motorcycle operator training course. You will lose that right if, on or before your

appearance date, you do not provide the court with notice of your request to take the course."

(r) Authorizes the defendant to continue to exercise the defendant's right to take a driving safety course or a motorcycle operator training course until the notice required by Subsection (q) is provided to the defendant or there is a final disposition of the case, if the notice required by Subsection (q) is not provided to the defendant charged with the offense.

(s) Provides that this article does not apply to an offense committed by a person who holds a commercial driver's license.

(t) Provides that an order of deferral under Subsection (c) terminates any liability under a bail bond or appearance bond given for the charge. Deletes language referencing a special expense for deferred disposition.

SECTION 3. Amends, Section 472.022(f), Transportation Code, to eliminate Article 45.54, Code of Criminal Procedure, as an article that does not apply to an offense under this section committed in a construction or maintenance work zone when workers are present. Adds Articles 45.051 and 45.0511 as articles which do apply.

SECTION 4. Repealer: Section 543.101 (Statement of Right Provided on Notice to Appear) and Section 543.117 (Offense in Construction or Maintenance Work Zone), Transportation Code.

SECTION 5. Provides that in the event of a conflict between Article 45.051 or 45.0511, Code of Criminal Procedure, as amended by this Act, and another Act passed by the 78th Legislature, Regular Session, 2003, that becomes law, those articles as amended by this Act prevail and control, regardless of the relative dates of enactment.

SECTION 6. (a) Effective date: September 1, 2003.

(b) and (c) Make application of this Act prospective.