

BILL ANALYSIS

C.S.H.B. 51
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, persons convicted of certain intoxication offenses and placed on community supervision may be required to have an ignition interlock device installed on their vehicle. The device makes impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath of the operator. If the person has been previously convicted of an intoxication offense the person is required to have the device installed. C.S.H.B. 51 requires an interlock device to be installed if the person had a blood alcohol concentration level of 0.15 or more at the time the analysis was performed.

In addition, Section 49.09 of the Penal Code deals with enhanced penalties for certain intoxication offenses, for persons who have been previously convicted of an intoxication offense. Under current law, however, the offense may not be enhanced if the conviction was more than ten years ago and the defendant has not been convicted of a subsequent intoxication offense. C.S.H.B. 51 repeals this ten year provision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 51 requires a judge granting community supervision to a defendant convicted of certain intoxication offenses to require as a condition of community supervision that the defendant submit to an evaluation by a supervision officer or by a person, program, or facility approved by the Department of State Health Services for the purpose of having the facility prescribe and carry out a course of conduct necessary for the rehabilitation of the defendant's drug or alcohol dependence condition. This replaces the requirement that the judge require a period of confinement of not less than 120 days.

If the director of a facility to which a defendant is referred as a condition of community supervision determines that the defendant is not making a good faith effort to participate in a program of rehabilitation, the director shall notify the judge that referred the defendant of that fact.

C.S.H.B. 51 requires a court that places a person on community supervision who was convicted of certain intoxication offenses and who had a BAC of 0.15, to require as a condition of community supervision that the defendant have a device installed, on each motor vehicle owned or operated by the defendant, that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the operator vehicle and that the defendant not operate any motor vehicle unless the vehicle is equipped with that device. Makes conforming amendments, adding DWI with a child as passenger to list of offenses.

The bill repeals the current ten-year limitation, allowing punishments to be enhanced for persons whose most recent intoxication conviction was more than ten years ago.

EFFECTIVE DATE

September 1, 2005.

C.S.H.B. 51 79(R)

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute removes provisions contained in the original that created an enhanced penalty (Class A misdemeanor) for DWI, BWI and FWI if an analysis of the person's blood, breath, or urine showed an alcohol concentration of 0.15. It also removes other enhancements, but requires that persons convicted of certain offenses with a BAC of 0.15 must have an interlock device installed on their vehicle as a condition of community supervision.