

Amend CSHB 4061 (House Committee Report) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill:

SECTION _____. Section 5(d), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(d) In all other cases the judge may grant deferred adjudication unless:

(1) the defendant is charged with an offense:

(A) under Section 49.07 or 49.08 [~~Sections 49.04-49.08~~], Penal Code; [~~or~~]

(B) under Section 49.04, 49.045, 49.05, 49.06, or 49.065, Penal Code, and, at the time of the offense, the defendant:

(i) held a commercial driver's license or a commercial driver learner's permit; or

(ii) was driving a commercial vehicle;

(C) for which punishment may be increased under Section 49.09, Penal Code; or

(D) for which punishment may be increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any one of those subsections;

(2) the defendant:

(A) is charged with an offense under Section 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the victim, or a felony described by Section 13B(b) of this article; and

(B) has previously been placed on community supervision for any offense under Paragraph (A) of this subdivision; or

(3) the defendant is charged with an offense under:

(A) Section 21.02, Penal Code; or

(B) Section 22.021, Penal Code, that is punishable under Subsection (f) of that section or under Section 12.42(c)(3), Penal Code.

SECTION _____. Section 13, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (o) to read as follows:

(o) A judge granting deferred adjudication to a defendant

for an offense under Section 49.04, 49.045, 49.05, 49.06, or 49.065, Penal Code, shall require the defendant to have an ignition interlock device installed under Subsection (i), regardless of whether the defendant would be required to have the device installed if the defendant was convicted.

SECTION _____. Section 411.081(e), Government Code, is amended to read as follows:

(e) A person is entitled to petition the court under Subsection (d) only if during the period of the deferred adjudication community supervision for which the order of nondisclosure is requested and during the applicable period described by Subsection (d)(1), (2), or (3), as appropriate, the person is not convicted of or placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, for any offense other than an offense under the Transportation Code punishable by fine only. A person is not entitled to petition the court under Subsection (d) if the person was placed on the deferred adjudication community supervision for or has been previously convicted or placed on any other deferred adjudication for:

(1) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;

(2) an offense under Section 20.04, Penal Code, regardless of whether the offense is a reportable conviction or adjudication for purposes of Chapter 62, Code of Criminal Procedure;

(3) an offense under Section 19.02, 19.03, 22.04, 22.041, 25.07, or 42.072, Penal Code; ~~[or]~~

(4) any other offense involving family violence, as defined by Section 71.004, Family Code; or

(5) an offense under Section 49.04, 49.045, 49.05, 49.06, or 49.065, Penal Code.

SECTION _____. Sections 49.09(a), (b), and (g), Penal Code, are amended to read as follows:

(a) Except as provided by Subsection (b), an offense under Section 49.04, 49.045, 49.05, 49.06, or 49.065 is a Class A misdemeanor, with a minimum term of confinement of 30 days, if it is

shown on the trial of the offense that the person has previously been convicted one time of an offense relating to the operating of a motor vehicle while intoxicated, an offense of operating an aircraft while intoxicated, an offense of operating a watercraft while intoxicated, or an offense of operating or assembling an amusement ride while intoxicated.

(b) An offense under Section 49.04, 49.045, 49.05, 49.06, or 49.065 is a felony of the third degree if it is shown on the trial of the offense that the person has previously been convicted:

(1) one time of an offense under Section 49.08 or an offense under the laws of another state if the offense contains elements that are substantially similar to the elements of an offense under Section 49.08; or

(2) two times of any other offense relating to the operating of a motor vehicle while intoxicated, operating an aircraft while intoxicated, operating a watercraft while intoxicated, or operating or assembling an amusement ride while intoxicated.

(g) A conviction may be used for purposes of enhancement under this section or enhancement under Subchapter D, Chapter 12, but not under both this section and Subchapter D. A deferred adjudication for an offense under Section 49.04, 49.045, 49.05, 49.06, or 49.065 is considered a conviction for purposes of enhancement of penalties under this section or Subchapter D, Chapter 12.

(2) On page 7, line 22, strike "Except as provided by Section 5 of this Act" and substitute "(a) Except as provided by Subsection (b) of this section".

(3) On page 8, line 3, strike "SECTION 5" and substitute "(b)".

(4) Renumber remaining SECTIONS of the bill accordingly.