

By: Wentworth

S.B. No. 1393

A BILL TO BE ENTITLED

AN ACT

relating to the conditions for release on bond of a defendant charged with certain intoxication offenses.

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

SECTION 1. Article 17.441, Code of Criminal Procedure, is amended to read as follows:

Art. 17.441. CONDITIONS REQUIRING MOTOR VEHICLE IGNITION INTERLOCK DEVICE OR ALCOHOL MONITORING DEVICE. (a) Except as provided by Subsection (b), a magistrate shall require on release that a defendant charged with a subsequent offense under Sections 49.04-49.06, Penal Code, or an offense under Section 49.07 or 49.08 of that code, as specified by the magistrate:

(1) have installed on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant, an ignition interlock [~~a~~] device that uses a deep-lung breath analysis mechanism to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath of the operator, [+] and

[~~2~~] not operate any motor vehicle unless the vehicle is equipped with that device; or

(2) wear an alcohol monitoring device that provides continuous remote alcohol monitoring and cannot be removed.

(b) The magistrate may not require the installation of the ignition interlock device or the wearing of the alcohol monitoring

1 device if the magistrate finds that to require the ignition
2 interlock device or the alcohol monitoring device would not be in
3 the best interest of justice.

4 (c) If the defendant is required to have the ignition
5 interlock device installed, the magistrate shall require that the
6 defendant have the device installed on the appropriate motor
7 vehicle, at the defendant's expense, before the 30th day after the
8 date the defendant is released on bond.

9 (c-1) If the defendant is required to wear the alcohol
10 monitoring device, the magistrate shall require the defendant to
11 obtain the device at the defendant's expense and have the device
12 secured on the defendant before the 10th day after the defendant is
13 released on bond.

14 (d) The magistrate may designate an appropriate agency to
15 verify the installation of the ignition interlock device and to
16 monitor the device. If the magistrate designates an agency under
17 this subsection, in each month during which the agency verifies the
18 installation of the ignition interlock device or provides a
19 monitoring service, the defendant shall pay a fee to the designated
20 agency in the amount set by the magistrate. The defendant shall pay
21 the initial fee at the time the agency verifies the installation of
22 the ignition interlock device. In each subsequent month during
23 which the defendant is required to pay a fee, the defendant shall
24 pay the fee on the first occasion in that month that the agency
25 provides a monitoring service. The magistrate shall set the fee in
26 an amount not to exceed \$10 as determined by the county auditor, or
27 by the commissioners court of the county if the county does not have

1 a county auditor, to be sufficient to cover the cost incurred by the
2 designated agency in conducting the verification, ~~[or]~~ providing
3 the monitoring service, or both, as applicable in that county.

4 SECTION 2. The change in law made by this Act applies only
5 to an offense committed on or after the effective date of this Act.
6 An offense committed before the effective date of this Act is
7 covered by the law in effect when the offense was committed, and the
8 former law is continued in effect for that purpose. For purposes of
9 this section, an offense was committed before the effective date of
10 this Act if any element of the offense occurred before that date.

11 SECTION 3. This Act takes effect September 1, 2009.