

## **BILL ANALYSIS**

C.S.H.B. 24  
By: Martinez Fischer  
Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Driving while intoxicated is a serious problem in Texas that threatens lives, damages property, and occupies important resources in the Texas criminal justice system that could be used to combat other dangerous crimes. Interested parties contend that it is necessary for the legislature to create a centralized coordinated effort at the state level to develop effective initiatives to combat this life-threatening problem in Texas. In an effort to address these concerns, C.S.H.B. 24 creates a policy director for the prevention of driving while intoxicated and sets out the director's duties in this regard.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the policy director for the prevention of driving while intoxicated in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 24 amends the Government Code to establish the policy director for the prevention of driving while intoxicated as a state officeholder administratively attached to the governor's office and appointed by the governor with the advice and consent of the senate. The bill establishes a two-year term for the office that expires September 1 of each odd-numbered year and requires the governor, promptly after the bill's effective date, to appoint the policy director to a term that expires September 1, 2015.

C.S.H.B. 24 requires the policy director to monitor driving while intoxicated data collected in Texas; monitor other states for laws and programs that have been successful in reducing the occurrence of offenses relating to the operating of a motor vehicle while intoxicated; and work with the Texas Department of Transportation, the Department of Public Safety, and the Department of State Health Services to reduce alcoholism, recidivism, and the occurrence of offenses relating to the operating of a motor vehicle while intoxicated in Texas. The bill requires the policy director, not later than January 1 of each odd-numbered year, to submit a report to the legislature and describes the required contents of the report. The bill authorizes the policy director to adopt rules necessary to implement the bill's provisions.

C.S.H.B. 24 establishes the driving while intoxicated prevention account within the general revenue fund to consist of money deposited to the credit of the account derived from court costs imposed on a defendant on a conviction of an offense relating to the operation of a motor vehicle while intoxicated, money from gifts or grants from any source, and interest earned on the investment of money in the account and depository interest allocable to the account. The bill limits the purposes for which money in the account may be appropriated to supporting the office of the policy director and programs approved by the policy director for the prevention of offenses relating to the operating of a motor vehicle while intoxicated in Texas. The bill exempts the driving while intoxicated prevention account from statutory provisions governing the use of dedicated revenue appropriated for a specific purpose or entity and requires interest earned on money in the account to be credited to the account. The bill makes the office of the policy

director for the prevention of driving while intoxicated subject to the Texas Sunset Act as if it were a state agency, and specifies that, unless continued in existence, the position is abolished and the bill's provisions expire September 1, 2015.

C.S.H.B. 24 amends the Code of Criminal Procedure and Government Code to require a defendant to pay a \$10 court cost on conviction of an offense relating to the operating of a motor vehicle while intoxicated, in addition to all other costs imposed under other statutory provisions, and requires each such cost collected to be deposited to the credit of the driving while intoxicated prevention account.

### **EFFECTIVE DATE**

September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 24 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Subtitle B, Title 4, Government Code, is amended by adding Chapter 423 to read as follows:

#### CHAPTER 423. DRIVING WHILE INTOXICATED PREVENTION

Sec. 423.001. EXECUTIVE COMMISSIONER FOR PREVENTION OF DRIVING WHILE INTOXICATED. (a)

The executive commissioner for the prevention of driving while intoxicated is a state officeholder appointed by the governor with the advice and consent of the senate.

(b) The executive commissioner serves a two-year term that expires February 1 of each odd-numbered year.

(c) The executive commissioner is administratively attached to the governor's office.

(d) The executive commissioner shall:

(1) monitor driving while intoxicated data collected in this state, including data relating to:

(A) driving fatalities involving intoxicated drivers; and

(B) automatic driver's license suspensions by the Texas Department of Public Safety for convictions of an offense under Section 49.04 or 49.045, Penal Code, or an offense

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle B, Title 4, Government Code, is amended by adding Chapter 423 to read as follows:

#### CHAPTER 423. DRIVING WHILE INTOXICATED PREVENTION

Sec. 423.001. DEFINITION. In this chapter, "offense relating to the operating of a motor vehicle while intoxicated" has the meaning assigned by Section 49.09(c), Penal Code.

Sec. 423.002. OFFICE OF POLICY DIRECTOR FOR PREVENTION OF DRIVING WHILE INTOXICATED. (a)

The policy director for the prevention of driving while intoxicated is a state officeholder appointed by the governor with the advice and consent of the senate.

(b) The policy director serves a two-year term that expires September 1 of each odd-numbered year.

(c) The policy director is administratively attached to the governor's office.

(d) The policy director shall:

(1) monitor driving while intoxicated data collected in this state, including data relating to:

(A) driving fatalities involving intoxicated drivers; and

(B) automatic driver's license suspensions by the Department of Public Safety for convictions of an offense relating to the operating of a motor vehicle while

under Section 49.07 or 49.08 of that code that involved the operation of a motor vehicle;

(2) monitor other states for laws and programs that have been successful in reducing the number of driving while intoxicated offenses committed in those states; and

(3) work with the Texas Department of Transportation, the Department of Public Safety, and the Department of State Health Services to reduce alcoholism, recidivism, and the number of intoxication offenses committed in this state.

(e) Not later than January 1 of each odd-numbered year, the executive commissioner shall submit a report to the legislature that:

(1) describes the success of state laws and programs in reducing the number of driving while intoxicated offenses; and

(2) recommends legislation relating to the prevention of driving while intoxicated in this state.

(f) The executive commissioner may adopt rules as necessary to implement this section. Sec. 423.002. DRIVING WHILE INTOXICATED PREVENTION ACCOUNT; COLLECTION OF CERTAIN FEES. (a) The driving while intoxicated prevention account is an account in the general revenue fund. The account consists of:

(1) money deposited to the credit of the account derived from court costs imposed under Article 102.018(e), Code of Criminal Procedure;

(2) money from gifts or grants from the United States, regional or local governments, educational institutions, private sources, or other sources; and

(3) interest earned on the investment of money in the account and depository interest allocable to the account.

(b) Money in the driving while intoxicated prevention account may be appropriated only for the support of the office of the executive commissioner for the prevention of driving while intoxicated and for programs approved by the executive commissioner for the prevention of driving while intoxicated offenses in this state.

(c) The driving while intoxicated

intoxicated;

(2) monitor other states for laws and programs that have been successful in reducing the occurrence of offenses relating to the operating of a motor vehicle while intoxicated; and

(3) work with the Texas Department of Transportation, the Department of Public Safety, and the Department of State Health Services to reduce alcoholism, recidivism, and the occurrence of offenses relating to the operating of a motor vehicle while intoxicated in this state.

(e) Not later than January 1 of each odd-numbered year, the policy director shall submit a report to the legislature that:

(1) describes the success of state laws and programs in reducing the occurrence of offenses relating to the operating of a motor vehicle while intoxicated; and

(2) recommends legislation relating to the prevention of those offenses in this state.

(f) The policy director may adopt rules necessary to implement this section. Sec. 423.003. DRIVING WHILE INTOXICATED PREVENTION ACCOUNT; COLLECTION OF CERTAIN FEES. (a) The driving while intoxicated prevention account is an account in the general revenue fund. The account consists of:

(1) money deposited to the credit of the account derived from court costs imposed under Article 102.018(e), Code of Criminal Procedure;

(2) money from gifts or grants from any source, including the United States, regional or local governments, educational institutions, or private sources; and

(3) interest earned on the investment of money in the account and depository interest allocable to the account.

(b) Money in the driving while intoxicated prevention account may be appropriated only for the support of the office of the policy director for the prevention of driving while intoxicated and for programs approved by the policy director for the prevention of offenses relating to the operating of a motor vehicle while intoxicated in this state.

(c) The driving while intoxicated

prevention account is exempt from the application of Sections 403.095 and 404.071.

No equivalent provision.

SECTION 2. Article 102.018, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e) On the conviction of an offense relating to the operation of a motor vehicle while intoxicated, as defined by Section 49.09(c)(1)(A) or (B), Penal Code, the court shall impose a cost of \$10 on a defendant. A cost imposed under this subsection is in addition to a cost imposed under Subsection (a), (b), or (c). Each cost collected under this subsection shall be deposited to the credit of the driving while intoxicated prevention account under Section 423.002, Government Code.

SECTION 3. (a) Section 102.021, Government Code, is amended to read as follows:

Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL PROCEDURE. A person convicted of an offense shall pay the following under the Code of Criminal Procedure, in addition to all other costs:

- (1) court cost on conviction of any offense, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Art. 102.0045, Code of Criminal Procedure) . . . \$4;
- (2) a fee for services of prosecutor (Art. 102.008, Code of Criminal Procedure) . . . \$25;
- (3) fees for services of peace officer:
  - (A) issuing a written notice to appear in court for certain violations (Art. 102.011, Code of Criminal Procedure) . . . \$5;
  - (B) executing or processing an issued arrest warrant, [ø] capias, or capias pro fine (Art. 102.011, Code of Criminal Procedure) . . .

prevention account is exempt from the application of Section 403.095. Interest earned on money in the account shall be credited to the account.

Sec. 423.004. SUNSET PROVISION. The office of the policy director for the prevention of driving while intoxicated is subject to Chapter 325 (Texas Sunset Act) as if it were a state agency. Unless continued in existence as provided by that chapter, the position is abolished and this chapter expires September 1, 2015.

SECTION 2. Substantially the same as introduced version.

SECTION 3. Subchapter B, Chapter 102, Government Code, is amended by adding Section 102.0215 to read as follows:

Sec. 102.0215. ADDITIONAL COURT COSTS: CODE OF CRIMINAL PROCEDURE. A defendant who is convicted of an offense (see below)

\$50;

(C) summoning a witness (Art. 102.011, Code of Criminal Procedure) . . . \$5;

(D) serving a writ not otherwise listed (Art. 102.011, Code of Criminal Procedure) . . . \$35;

(E) taking and approving a bond and, if necessary, returning the bond to courthouse (Art. 102.011, Code of Criminal Procedure) . . . \$10;

(F) commitment or release (Art. 102.011, Code of Criminal Procedure) . . . \$5;

(G) summoning a jury (Art. 102.011, Code of Criminal Procedure) . . . \$5;

(H) attendance of a prisoner in habeas corpus case if prisoner has been remanded to custody or held to bail (Art. 102.011, Code of Criminal Procedure) . . . \$8 each day;

(I) mileage for certain services performed (Art. 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and

(J) services of a sheriff or constable who serves process and attends examining trial in certain cases (Art. 102.011, Code of Criminal Procedure) . . . not to exceed \$5;

(4) services of a peace officer in conveying a witness outside the county (Art. 102.011, Code of Criminal Procedure) . . . \$10 per day or part of a day, plus actual necessary travel expenses;

(5) overtime of peace officer for time spent testifying in the trial or traveling to or from testifying in the trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;

(6) court costs on an offense relating to rules of the road, when offense occurs within a school crossing zone (Art. 102.014, Code of Criminal Procedure) . . . \$25;

(7) court costs on an offense of passing a school bus (Art. 102.014, Code of Criminal Procedure) . . . \$25;

(8) court costs on an offense of truancy or contributing to truancy (Art. 102.014, Code of Criminal Procedure) . . . \$20;

(9) cost for visual recording of intoxication arrest before conviction (Art. 102.018, Code of Criminal Procedure) . . . \$15;

(10) cost of certain evaluations (Art. 102.018, Code of Criminal Procedure) . . . actual cost;

(11) additional costs attendant to certain intoxication convictions under Chapter 49, Penal Code, for emergency medical services, trauma facilities, and trauma care

systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;

(12) additional costs attendant to certain child sexual assault and related convictions, for child abuse prevention programs (Art. 102.0186, Code of Criminal Procedure) . . . \$100;

(13) cost for DNA testing for certain felonies (Art. 102.020, Code of Criminal Procedure) . . . \$250;

(14) court cost on an offense of public lewdness or indecent exposure (Art. 102.020, Code of Criminal Procedure) . . . \$50;

(15) court cost for DNA testing for certain felonies (Art. 102.020(a)(3), Code of Criminal Procedure) . . . \$34;

(16) if required by the court, a restitution fee for costs incurred in collecting restitution installments and for the compensation to victims of crime fund (Art. 42.037, Code of Criminal Procedure) . . . \$12;

(17) if directed by the justice of the peace or municipal court judge hearing the case, court costs on conviction in a criminal action (Art. 45.041, Code of Criminal Procedure) . . . part or all of the costs as directed by the judge;

(17) costs attendant to convictions under Chapter 49, Penal Code, and under Chapter 481, Health and Safety Code, to help fund drug court programs established under Chapter 469, Health and Safety Code (Art. 102.0178, Code of Criminal Procedure) . . . \$50; and

(18) costs attendant to convictions under Chapter 49, Penal Code, and under Chapter 481, Health and Safety Code, to help fund drug court programs established under Chapter 469, Health and Safety Code (Art. 102.0178, Code of Criminal Procedure) . . . \$50[-]; and

(19) court cost on conviction of an offense relating to the operation of a motor vehicle while intoxicated (Art. 102.018(e), Code of Criminal Procedure) . . . \$10.

relating to the operating of a motor vehicle while intoxicated shall pay a cost on conviction, in addition to all other costs, to help fund the prevention of driving while intoxicated under Chapter 423, Government Code (Art. 102.018(e), Code of Criminal Procedure) . . . \$10.

SECTION 4. Promptly after the effective date of this Act, the governor shall appoint

SECTION 4. Promptly after the effective date of this Act, the governor shall appoint

the **executive commissioner** for the prevention of driving while intoxicated. In appointing the **executive commissioner**, the governor shall appoint the person to a term expiring **February 1, 2015**.

**No equivalent provision.**

SECTION 5. This Act takes effect September 1, 2013.

the **policy director** for the prevention of driving while intoxicated. In appointing the **policy director**, the governor shall appoint the person to a term expiring **September 1, 2015**.

SECTION 5. Article 102.018(e), Code of Criminal Procedure, as added by this Act, applies only to a cost on conviction for an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 6. Same as introduced version.