

## **BILL ANALYSIS**

Senate Research Center  
84R3139 GCB-D

H.B. 642  
By: Canales (Hinojosa)  
Criminal Justice  
5/8/2015  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties note that alcoholic awareness courses are designed, in part, to help a child who engages in conduct constituting an alcohol-related offense better understand the dangers of alcohol abuse. The parties contend that such a requirement to attend these and related courses should apply to a child who engages in conduct constituting a drug-related offense to combat drug abuse and drug-associated criminal activity in addition to combatting alcohol abuse. H.B. 642 seeks to increase awareness of the dangers of drug and alcohol abuse.

H.B. 642 amends current law relating to an alcohol awareness program or drug education program for certain minors convicted of or adjudicated to have engaged in, or placed on deferred disposition or community supervision for, certain drug or alcohol related offenses, and authorizes a fee.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Department of State Health Services in SECTION 4 (Section 54.047, Family Code) of this bill.

Rulemaking authority previously granted to the Texas Commission on Alcohol and Drug Abuse is transferred to the executive commissioner of the Health and Human Services Commission in Section (Section 521.374, Transportation Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 11, Article 42.12, Code of Criminal Procedure, by adding Subsection (n), as follows:

(n)(1) Requires the judge, if a judge grants community supervision to a defendant younger than 18 years of age convicted of an alcohol-related offense under Section 106.02 (Purchase of Alcohol by a Minor), 106.025 (Attempt to Purchase of Alcohol by a Minor), 106.04 (Consumption of Alcohol by a Minor), 106.041 (Driving or Operating Watercraft Under the Influence of Alcohol by Minor), 106.05 (Possession of Alcohol by a Minor), or 106.07 (Misrepresentation of Age by a Minor), Alcoholic Beverage Code, or Section 49.02 (Public Intoxication), Penal Code, or an offense involving possession of a controlled substance or marihuana under Section 481.115 (Offense: Possession of Substance in Penalty Group 1), 481.1151 (Offense: Possession of Substance in Penalty Group 1-A), 481.116 (Offense: Possession of Substance in Penalty Group 2), 481.1161 (Offense: Possession of Substance in Penalty Group 2-A), 481.117 (Offense: Possession of Substance in Penalty Group 3), 481.118 (Offense: Possession of Substance in Penalty Group 4), or 481.121 (Offense: Possession of Marihuana), Health and Safety Code, to require the defendant as a condition of community supervision to attend, as appropriate, an alcohol awareness program approved under Section 106.115 (Attendance at Alcohol Awareness Course; License Suspension), Alcoholic Beverage Code, or a drug education program that is designed to educate persons on the dangers of drug abuse and is approved by the Department of State Health Services in accordance with Section 521.374 (Educational Program), Transportation Code.

(2) Requires the judge, if a judge requires a defendant as a condition of community supervision to attend an alcohol awareness program or drug education program described by Subdivision (1), unless the judge determines that the defendant is indigent and unable to pay the cost, to require the defendant to pay the cost of attending the program. Provides that the judge may allow the defendant to pay the cost of attending the program in installments during the term of community supervision.

SECTION 2. Amends Article 45.051, Code of Criminal Procedure, by amending Subsection (b) and adding Subsection (g), as follows:

(b) Authorizes the judge, during the deferral period, to require the defendant to participate in an alcohol or drug abuse treatment or education program, such as a drug education program that is designed to educate persons on the dangers of drug abuse and is approved by the Department of State Health Services in accordance with Section 521.374, Transportation Code, or an alcohol awareness program described by Section 106.115, Alcoholic Beverage Code.

(g) Requires the judge, if a judge requires a defendant under Subsection (b) to attend an alcohol awareness program or drug education program as described by Subdivision (6) of that subsection, unless the judge determines that the defendant is indigent and unable to pay the cost, to require the defendant to pay the cost of attending the program. Authorizes the judge to allow the defendant to pay the cost of attending the program in installments during the deferral period.

SECTION 3. Amends Section 53.03, Family Code, by adding Subsections (h-1) and (h-2), as follows:

(h-1) Provides that if the child is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision that violates Section 481.115, 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121, Health and Safety Code, deferred prosecution under this section may include a condition that the child attend a drug education program that is designed to educate persons on the dangers of drug abuse and is approved by the Department of State Health Services in accordance with Section 521.374, Transportation Code.

(h-2) Provides that if the child is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision that violates Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, Alcoholic Beverage Code, or Section 49.02, Penal Code, deferred prosecution under this section may include a condition that the child attend an alcohol awareness program described by Section 106.115, Alcoholic Beverage Code.

SECTION 4. Amends Section 54.047, Family Code, as follows:

Sec. 54.047. New heading: ALCOHOL OR DRUG RELATED OFFENSE. (a) Creates this subsection from existing text. Authorizes the court, if the court or jury finds at an adjudication hearing for a child that the child engaged in delinquent conduct or conduct indicating a need for supervision that constitutes a violation of Section 481.115, 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121, Health and Safety Code, to order that the child attend a drug education program that is designed to educate persons on the dangers of drug abuse and is approved by the Department of State Health Services in accordance with Section 521.374, Transportation Code. Makes a nonsubstantive change.

(b) Authorizes the court, if the court or jury finds at an adjudication hearing for a child that the child engaged in delinquent conduct or conduct indicating a need for supervision that violates the alcohol-related offenses in Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, Alcoholic Beverage Code, or Section 49.02, Penal Code, to order that the child attend an alcohol awareness program described by Section 106.115, Alcoholic Beverage Code.

(c) Requires the court, in addition to any order described by Subsection (a) or (b), to order that, in the manner provided by Section 106.071(d) (relating to deferred disposition), Alcoholic Beverage Code: the child perform community service; and the child's driver's license or permit be suspended or that the child be denied issuance of a driver's license or permit.

Deletes existing text requiring the court, subject to a finding under Section 54.04(c) and in addition to any other order authorized by this title, to order that the child perform community service and to order that the child's driver's license or permit be suspended or that the child be denied issuance of a driver's license or permit, in the manner provided by Section 106.071(d), Alcoholic Beverage Code.

(d) Provides that an order under this section is subject to a finding under Section 54.04(c) and may be issued in addition to any other order authorized by this title.

(e) Provides that the Department of State Health Services:

(1) is responsible for the administration of the certification of drug education programs;

(2) is authorized to charge a nonrefundable application fee for initial certification of approval, or renewal of the certification;

(3) is required to adopt rules regarding drug education programs approved under this section; and

(4) is required to monitor and provide training to a person who provides a drug education program.

(f) Requires the court, if the court orders a child under Subsection (a) or (b) to attend a drug education program or alcohol awareness program, unless the court determines that the parent or guardian of the child is indigent and unable to pay the cost, to require the child's parent or a guardian of the child to pay the cost of attending the program. Requires the court to allow the child's parent or guardian to pay the cost of attending the program in installments.

SECTION 5. Amends Section 521.374(a), Transportation Code, as follows:

(a) Authorizes a person whose license is suspended under Section 521.372 (Automatic Suspension; License Denial) to attend an educational program, approved by the Department of State Health Services, rather than the Texas Commission on Alcohol and Drug Abuse, under rules adopted by the executive commissioner of the Health and Human Services Commission, rather than the Texas Commission on Alcohol and Drug Abuse and the Department of Public Safety, that is designed to educate persons on the dangers of drug abuse.

SECTION 6. Effective date: September 1, 2015.