

By: Hinojosa

S.B. No. 1070

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to allowing certain defendants to receive education at a  
3 substance abuse treatment facility in lieu of attending an  
4 education program; changing required conditions of community  
5 supervision for certain defendants.

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

7 SECTION 1. Section 13, Article 42.12, Code of Criminal  
8 Procedure, is amended by amending Subsections (h) and (j) and  
9 adding Subsection (o) to read as follows:

10 (h) If a person convicted of an offense under Sections  
11 49.04-49.08, Penal Code, is placed on community supervision, the  
12 judge shall require, as a condition of the community supervision,  
13 that the defendant attend and successfully complete before the  
14 181st day after the day community supervision is granted an  
15 educational program jointly approved by the Department of State  
16 Health Services [~~Texas Commission on Alcohol and Drug Abuse~~], the  
17 Department of Public Safety, the Traffic Safety Section of the  
18 Texas Department of Transportation, and the community justice  
19 assistance division of the Texas Department of Criminal Justice  
20 designed to rehabilitate persons who have driven while  
21 intoxicated. The executive commissioner of the Health and Human  
22 Services [~~Texas~~] Commission [~~on Alcohol and Drug Abuse~~] shall  
23 publish the jointly approved rules and the Department of State  
24 Health Services shall monitor, coordinate, and provide training to

1 persons providing the educational programs. The Department of  
2 State Health Services [~~Texas Commission on Alcohol and Drug Abuse~~]  
3 is responsible for the administration of the certification of  
4 approved educational programs and may charge a nonrefundable  
5 application fee for the initial certification of approval and for  
6 renewal of a certificate. The judge may waive the educational  
7 program requirement or may grant an extension of time to  
8 successfully complete the program that expires not later than one  
9 year after the beginning date of the person's community  
10 supervision, however, if the defendant by a motion in writing shows  
11 good cause. In determining good cause, the judge may consider but  
12 is not limited to: the defendant's school and work schedule, the  
13 defendant's health, the distance that the defendant must travel to  
14 attend an educational program, and the fact that the defendant  
15 resides out of state, has no valid driver's license, or does not  
16 have access to transportation. The judge shall waive the  
17 educational program requirement if the defendant participates in  
18 equivalent education at a residential treatment facility under  
19 Subsection (o). The judge shall set out in the judgment the finding  
20 of good cause for waiver or the finding that the defendant has  
21 received equivalent education as provided by Subsection (o), as  
22 applicable [~~in the judgment~~]. If a defendant is required, as a  
23 condition of community supervision, to attend an educational  
24 program or if the court waives the educational program requirement  
25 or the defendant participates in equivalent education under  
26 Subsection (o), the court clerk shall immediately report that fact  
27 to the Department of Public Safety, on a form prescribed by the

1 department, for inclusion in the person's driving record. If the  
2 court grants an extension of time in which the person may complete  
3 the program, the court clerk shall immediately report that fact to  
4 the Department of Public Safety on a form prescribed by the  
5 department. The report must include the beginning date of the  
6 person's community supervision. Upon the person's successful  
7 completion of the educational program, the person's instructor  
8 shall give notice to the Department of Public Safety for inclusion  
9 in the person's driving record and to the community supervision and  
10 corrections department. The community supervision and corrections  
11 department shall then forward the notice to the court clerk for  
12 filing. Upon release from a residential treatment facility at  
13 which the person received equivalent education under Subsection  
14 (o), at the request of the court clerk, the director of the  
15 residential treatment facility shall give notice to the Department  
16 of Public Safety for inclusion in the person's driving record. If  
17 the Department of Public Safety does not receive notice that a  
18 defendant required to complete an educational program has  
19 successfully completed the program within the period required by  
20 this section, as shown on department records, the department shall  
21 revoke the defendant's driver's license, permit, or privilege or  
22 prohibit the person from obtaining a license or permit, as provided  
23 by Sections [521.344](#)(e) and (f), Transportation Code. The  
24 Department of Public Safety may not reinstate a license suspended  
25 under this subsection unless the person whose license was suspended  
26 makes application to the department for reinstatement of the  
27 person's license and pays to the department a reinstatement fee of

1 \$100. The Department of Public Safety shall remit all fees  
2 collected under this subsection to the comptroller for deposit in  
3 the general revenue fund. This subsection does not apply to a  
4 defendant if a jury recommends community supervision for the  
5 defendant and also recommends that the defendant's driver's license  
6 not be suspended.

7 (j) The judge shall require a defendant who is punished  
8 under Section 49.09, Penal Code, as a condition of community  
9 supervision, to attend and successfully complete an educational  
10 program for repeat offenders approved by the Department of State  
11 Health Services [~~Texas Commission on Alcohol and Drug Abuse~~]. The  
12 executive commissioner of the Health and Human Services [~~Texas~~  
13 ~~Commission~~ [~~on Alcohol and Drug Abuse~~] shall adopt rules and the  
14 Department of State Health Services shall monitor, coordinate, and  
15 provide training to persons providing the educational programs.  
16 The Department of State Health Services [~~Texas Commission on~~  
17 ~~Alcohol and Drug Abuse~~] is responsible for the administration of  
18 the certification of approved educational programs and may charge a  
19 nonrefundable application fee for initial certification of  
20 approval or for renewal of the certification. The judge may waive  
21 the educational program requirement [~~only~~] if the defendant by a  
22 motion in writing shows good cause. In determining good cause, the  
23 judge may consider the defendant's school and work schedule, the  
24 defendant's health, the distance that the defendant must travel to  
25 attend an educational program, and whether the defendant resides  
26 out of state or does not have access to transportation. The judge  
27 shall waive the educational program requirement if the defendant

1 participates in equivalent education at a residential treatment  
2 facility under Subsection (o). The judge shall set out in the  
3 judgment the finding of good cause for waiver or the finding that  
4 the defendant has received equivalent education as provided by  
5 Subsection (o), as applicable [~~in the judgment~~]. If a defendant is  
6 required, as a condition of community supervision, to attend an  
7 educational program, the court clerk shall immediately report that  
8 fact to the Department of Public Safety, on a form prescribed by the  
9 department, for inclusion in the defendant's driving record. The  
10 report must include the beginning date of the defendant's community  
11 supervision. On the defendant's successful completion of the  
12 educational program for repeat offenders, the defendant's  
13 instructor shall give notice to the Department of Public Safety for  
14 inclusion in the defendant's driving record and to the community  
15 supervision and corrections department. The community supervision  
16 and corrections department shall then forward the notice to the  
17 court clerk for filing. If the Department of Public Safety does not  
18 receive notice that a defendant required to complete an educational  
19 program has successfully completed the program for repeat offenders  
20 within the period required by the judge, as shown on department  
21 records, the department shall revoke the defendant's driver's  
22 license, permit, or privilege or prohibit the defendant from  
23 obtaining a license or permit, as provided by Sections [521.344\(e\)](#)  
24 and (f), Transportation Code.

25 (o) A judge shall waive the educational requirement under  
26 Subsection (h) or (j) for a defendant who is required to receive  
27 treatment as a resident of a substance abuse treatment facility as a

1 condition of community supervision if the defendant receives  
2 equivalent education while the defendant is confined to the  
3 residential treatment facility. The Department of State Health  
4 Services shall approve equivalent education provided at substance  
5 abuse treatment facilities and the executive commissioner of the  
6 Health and Human Services Commission shall adopt rules to implement  
7 this subsection. For purposes of this subsection, a substance  
8 abuse treatment facility includes:

9           (1) a substance abuse treatment facility or substance  
10 abuse felony punishment facility operated by the Texas Department  
11 of Criminal Justice under Section 493.009, Government Code; or

12           (2) a chemical dependency treatment facility licensed  
13 under Chapter 464, Health and Safety Code.

14           SECTION 2. Sections 521.374, 521.375, and 521.376,  
15 Transportation Code, are amended to read as follows:

16           Sec. 521.374. EDUCATIONAL PROGRAM OR EQUIVALENT EDUCATION.

17 (a) A person whose license is suspended under Section 521.372 may:

18           (1) attend an educational program, approved by the  
19 Department of State Health Services [~~Texas Commission on Alcohol~~  
20 ~~and Drug Abuse~~] under rules adopted by the executive commissioner  
21 of the Health and Human Services Commission [~~commission~~] and the  
22 department, that is designed to educate persons on the dangers of  
23 drug abuse; or

24           (2) receive education on the dangers of drug abuse  
25 approved by the Department of State Health Services as equivalent  
26 to the educational program described by Subdivision (1), while the  
27 person is a resident of a facility for the treatment of drug abuse

1 or chemical dependency, including:

2 (A) a substance abuse treatment facility or  
3 substance abuse felony punishment facility operated by the Texas  
4 Department of Criminal Justice under Section 493.009, Government  
5 Code; or

6 (B) a chemical dependency treatment facility  
7 licensed under Chapter 464, Health and Safety Code.

8 (b) The period of suspension or prohibition under Section  
9 521.372(c) continues for an indefinite period until the individual  
10 successfully completes the educational program or is released from  
11 the residential treatment facility at which the individual received  
12 equivalent education, as applicable.

13 Sec. 521.375. JOINT ADOPTION OF RULES. (a) The executive  
14 commissioner of the Health and Human Services [Texas] Commission  
15 [on Alcohol and Drug Abuse] and the department shall jointly adopt  
16 rules for the qualification and approval of:

17 (1) providers of educational programs under Section  
18 521.374(a)(1); and

19 (2) equivalent education provided in a residential  
20 treatment facility described by Section 521.374(a)(2) [521.374].

21 (b) The Department of State Health Services [Texas  
22 Commission on Alcohol and Drug Abuse] shall publish the jointly  
23 adopted rules.

24 Sec. 521.376. DUTIES OF DEPARTMENT OF STATE HEALTH SERVICES  
25 [TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE]; APPLICATION AND  
26 RENEWAL FEES. The Department of State Health Services [Texas  
27 Commission on Alcohol and Drug Abuse]:

1 (1) shall monitor, coordinate, and provide training  
2 to:

3 (A) persons who provide educational programs  
4 under Section 521.374(a)(1) [~~521.374~~]; and

5 (B) residential treatment facilities described  
6 by Section 521.374(a)(2) providing equivalent education;

7 (2) shall administer the approval of the [~~these~~]  
8 educational programs and the equivalent education provided in a  
9 residential treatment facility; and

10 (3) may charge a nonrefundable application fee to the  
11 provider of an educational program under Section 521.374(a)(1) for:

12 (A) initial certification of approval; and

13 (B) renewal of the certification.

14 SECTION 3. Section 521.377(a), Transportation Code, is  
15 amended to read as follows:

16 (a) The department, on payment of the applicable fee, shall  
17 reinstate a person's license or, if the person otherwise qualifies  
18 for a license, issue the license, if:

19 (1) the department receives notification from the  
20 clerk of the court in which the person was convicted that the person  
21 has successfully completed an educational program under Section  
22 521.374(a)(1) or equivalent education in a residential treatment  
23 facility under Section 521.374(a)(2) [~~this subchapter~~]; and

24 (2) the person's driver's license has been suspended  
25 or license application denied for at least the period provided by  
26 Section 521.372(c).

27 SECTION 4. (a) The change in law made by this Act to Section



1 13, Article 42.12, Code of Criminal Procedure, applies to a  
2 defendant placed on community supervision on or after the effective  
3 date of this Act, regardless of whether the offense for which the  
4 defendant was placed on community supervision occurred before, on,  
5 or after that date.

6 (b) The change in law made by this Act to Subchapter P,  
7 Chapter 521, Transportation Code, applies to a person whose  
8 driver's license is suspended on final conviction of an offense on  
9 or after the effective date of this Act, regardless of whether the  
10 offense occurred before, on, or after that date.

11 SECTION 5. This Act takes effect September 1, 2015.