

1-1 By: Hinojosa S.B. No. 1070
 1-2 (In the Senate - Filed March 9, 2015; March 16, 2015, read
 1-3 first time and referred to Committee on Criminal Justice;
 1-4 April 20, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 6, Nays 0; April 20, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1070 By: Whitmire

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to allowing certain defendants to successfully complete
 1-20 education at a substance abuse treatment facility in lieu of
 1-21 attending an education program; changing required conditions of
 1-22 community supervision for certain defendants.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 13, Article 42.12, Code of Criminal
 1-25 Procedure, is amended by amending Subsections (h) and (j) and
 1-26 adding Subsection (o) to read as follows:

1-27 (h) If a person convicted of an offense under Sections
 1-28 49.04-49.08, Penal Code, is placed on community supervision, the
 1-29 judge shall require, as a condition of the community supervision,
 1-30 that the defendant attend and successfully complete before the
 1-31 181st day after the day community supervision is granted an
 1-32 educational program jointly approved by the Department of State
 1-33 Health Services [~~Texas Commission on Alcohol and Drug Abuse~~], the
 1-34 Department of Public Safety, the Traffic Safety Section of the
 1-35 Texas Department of Transportation, and the community justice
 1-36 assistance division of the Texas Department of Criminal Justice
 1-37 designed to rehabilitate persons who have driven while
 1-38 intoxicated. The executive commissioner of the Health and Human
 1-39 Services [~~Texas~~] Commission [~~on Alcohol and Drug Abuse~~] shall
 1-40 publish the jointly approved rules and the Department of State
 1-41 Health Services shall monitor, coordinate, and provide training to
 1-42 persons providing the educational programs. The Department of
 1-43 State Health Services [~~Texas Commission on Alcohol and Drug Abuse~~]
 1-44 is responsible for the administration of the certification of
 1-45 approved educational programs and may charge a nonrefundable
 1-46 application fee for the initial certification of approval and for
 1-47 renewal of a certificate. The judge may waive the educational
 1-48 program requirement or may grant an extension of time to
 1-49 successfully complete the program that expires not later than one
 1-50 year after the beginning date of the person's community
 1-51 supervision, however, if the defendant by a motion in writing shows
 1-52 good cause. In determining good cause, the judge may consider but
 1-53 is not limited to: the defendant's school and work schedule, the
 1-54 defendant's health, the distance that the defendant must travel to
 1-55 attend an educational program, and the fact that the defendant
 1-56 resides out of state, has no valid driver's license, or does not
 1-57 have access to transportation. The judge shall waive the
 1-58 educational program requirement if the defendant successfully
 1-59 completes equivalent education at a residential treatment facility
 1-60 under Subsection (o). The judge shall set out in the judgment the

2-1 finding of good cause for waiver or the finding that the defendant
 2-2 has successfully completed equivalent education as provided by
 2-3 Subsection (o), as applicable [in the judgment]. If a defendant is
 2-4 required, as a condition of community supervision, to attend an
 2-5 educational program or if the court waives the educational program
 2-6 requirement or the defendant successfully completes equivalent
 2-7 education under Subsection (o), the court clerk shall immediately
 2-8 report that fact to the Department of Public Safety, on a form
 2-9 prescribed by the department, for inclusion in the person's driving
 2-10 record. If the court grants an extension of time in which the
 2-11 person may complete the program, the court clerk shall immediately
 2-12 report that fact to the Department of Public Safety on a form
 2-13 prescribed by the department. The report must include the
 2-14 beginning date of the person's community supervision. Upon the
 2-15 person's successful completion of the educational program, the
 2-16 person's instructor shall give notice to the Department of Public
 2-17 Safety for inclusion in the person's driving record and to the
 2-18 community supervision and corrections department. The community
 2-19 supervision and corrections department shall then forward the
 2-20 notice to the court clerk for filing. Upon release from a
 2-21 residential treatment facility at which the person successfully
 2-22 completed equivalent education under Subsection (o), at the request
 2-23 of the court clerk, the director of the residential treatment
 2-24 facility shall give notice to the Department of Public Safety for
 2-25 inclusion in the person's driving record. If the Department of
 2-26 Public Safety does not receive notice that a defendant required to
 2-27 complete an educational program has successfully completed the
 2-28 program within the period required by this section, as shown on
 2-29 department records, the department shall revoke the defendant's
 2-30 driver's license, permit, or privilege or prohibit the person from
 2-31 obtaining a license or permit, as provided by Sections 521.344(e)
 2-32 and (f), Transportation Code. The Department of Public Safety may
 2-33 not reinstate a license suspended under this subsection unless the
 2-34 person whose license was suspended makes application to the
 2-35 department for reinstatement of the person's license and pays to
 2-36 the department a reinstatement fee of \$100. The Department of
 2-37 Public Safety shall remit all fees collected under this subsection
 2-38 to the comptroller for deposit in the general revenue fund. This
 2-39 subsection does not apply to a defendant if a jury recommends
 2-40 community supervision for the defendant and also recommends that
 2-41 the defendant's driver's license not be suspended.

2-42 (j) The judge shall require a defendant who is punished
 2-43 under Section 49.09, Penal Code, as a condition of community
 2-44 supervision, to attend and successfully complete an educational
 2-45 program for repeat offenders approved by the Department of State
 2-46 Health Services [Texas Commission on Alcohol and Drug Abuse]. The
 2-47 executive commissioner of the Health and Human Services [Texas
 2-48 Commission [on Alcohol and Drug Abuse] shall adopt rules and the
 2-49 Department of State Health Services shall monitor, coordinate, and
 2-50 provide training to persons providing the educational programs.
 2-51 The Department of State Health Services [Texas Commission on
 2-52 Alcohol and Drug Abuse] is responsible for the administration of
 2-53 the certification of approved educational programs and may charge a
 2-54 nonrefundable application fee for initial certification of
 2-55 approval or for renewal of the certification. The judge may waive
 2-56 the educational program requirement ~~only~~ if the defendant by a
 2-57 motion in writing shows good cause. In determining good cause, the
 2-58 judge may consider the defendant's school and work schedule, the
 2-59 defendant's health, the distance that the defendant must travel to
 2-60 attend an educational program, and whether the defendant resides
 2-61 out of state or does not have access to transportation. The judge
 2-62 shall waive the educational program requirement if the defendant
 2-63 successfully completes equivalent education at a residential
 2-64 treatment facility under Subsection (o). The judge shall set out in
 2-65 the judgment the finding of good cause for waiver or the finding
 2-66 that the defendant has successfully completed equivalent education
 2-67 as provided by Subsection (o), as applicable [in the judgment]. If
 2-68 a defendant is required, as a condition of community supervision,
 2-69 to attend an educational program, the court clerk shall immediately

3-1 report that fact to the Department of Public Safety, on a form
3-2 prescribed by the department, for inclusion in the defendant's
3-3 driving record. The report must include the beginning date of the
3-4 defendant's community supervision. On the defendant's successful
3-5 completion of the educational program for repeat offenders, the
3-6 defendant's instructor shall give notice to the Department of
3-7 Public Safety for inclusion in the defendant's driving record and
3-8 to the community supervision and corrections department. The
3-9 community supervision and corrections department shall then
3-10 forward the notice to the court clerk for filing. If the Department
3-11 of Public Safety does not receive notice that a defendant required
3-12 to complete an educational program has successfully completed the
3-13 program for repeat offenders within the period required by the
3-14 judge, as shown on department records, the department shall revoke
3-15 the defendant's driver's license, permit, or privilege or prohibit
3-16 the defendant from obtaining a license or permit, as provided by
3-17 Sections 521.344(e) and (f), Transportation Code.

3-18 (o) A judge shall waive the educational requirement under
3-19 Subsection (h) or (j) for a defendant who is required to receive
3-20 treatment as a resident of a substance abuse treatment facility as a
3-21 condition of community supervision if the defendant successfully
3-22 completes equivalent education while the defendant is confined to
3-23 the residential treatment facility. The Department of State Health
3-24 Services shall approve equivalent education provided at substance
3-25 abuse treatment facilities and the executive commissioner of the
3-26 Health and Human Services Commission shall adopt rules to implement
3-27 this subsection. For purposes of this subsection, a substance
3-28 abuse treatment facility includes:

3-29 (1) a substance abuse treatment facility or substance
3-30 abuse felony punishment facility operated by the Texas Department
3-31 of Criminal Justice under Section 493.009, Government Code;

3-32 (2) a community corrections facility, as defined by
3-33 Section 509.001, Government Code; or

3-34 (3) a chemical dependency treatment facility licensed
3-35 under Chapter 464, Health and Safety Code.

3-36 SECTION 2. Sections 521.374, 521.375, and 521.376,
3-37 Transportation Code, are amended to read as follows:

3-38 Sec. 521.374. EDUCATIONAL PROGRAM OR EQUIVALENT EDUCATION.

3-39 (a) A person whose license is suspended under Section 521.372 may:

3-40 (1) attend an educational program, approved by the
3-41 Department of State Health Services [~~Texas Commission on Alcohol~~
3-42 and ~~Drug Abuse~~] under rules adopted by the executive commissioner
3-43 of the Health and Human Services Commission [~~commission~~]
3-44 and the department, that is designed to educate persons on the dangers of
3-45 drug abuse; or

3-46 (2) successfully complete education on the dangers of
3-47 drug abuse approved by the Department of State Health Services as
3-48 equivalent to the educational program described by Subdivision (1),
3-49 while the person is a resident of a facility for the treatment of
3-50 drug abuse or chemical dependency, including:

3-51 (A) a substance abuse treatment facility or
3-52 substance abuse felony punishment facility operated by the Texas
3-53 Department of Criminal Justice under Section 493.009, Government
3-54 Code;

3-55 (B) a community corrections facility, as defined
3-56 by Section 509.001, Government Code; or

3-57 (C) a chemical dependency treatment facility
3-58 licensed under Chapter 464, Health and Safety Code.

3-59 (b) The period of suspension or prohibition under Section
3-60 521.372(c) continues for an indefinite period until the individual
3-61 successfully completes the educational program or is released from
3-62 the residential treatment facility at which the individual
3-63 successfully completed equivalent education, as applicable.

3-64 Sec. 521.375. JOINT ADOPTION OF RULES. (a) The executive
3-65 commissioner of the Health and Human Services [~~Texas~~]
3-66 [~~on Alcohol and Drug Abuse~~] and the department shall jointly adopt
3-67 rules for the qualification and approval of:

3-68 (1) providers of educational programs under Section
3-69 521.374(a)(1); and

4-1 (2) equivalent education provided in a residential
4-2 treatment facility described by Section 521.374(a)(2) [521.374].

4-3 (b) The Department of State Health Services [Texas
4-4 Commission on Alcohol and Drug Abuse] shall publish the jointly
4-5 adopted rules.

4-6 Sec. 521.376. DUTIES OF DEPARTMENT OF STATE HEALTH SERVICES
4-7 [TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE]; APPLICATION AND
4-8 RENEWAL FEES. The Department of State Health Services [Texas
4-9 Commission on Alcohol and Drug Abuse]:

4-10 (1) shall monitor, coordinate, and provide training
4-11 to:

4-12 (A) persons who provide educational programs
4-13 under Section 521.374(a)(1) [521.374]; and

4-14 (B) residential treatment facilities described
4-15 by Section 521.374(a)(2) providing equivalent education;

4-16 (2) shall administer the approval of the [those]
4-17 educational programs and the equivalent education provided in a
4-18 residential treatment facility; and

4-19 (3) may charge a nonrefundable application fee to the
4-20 provider of an educational program under Section 521.374(a)(1) for:

4-21 (A) initial certification of approval; and

4-22 (B) renewal of the certification.

4-23 SECTION 3. Section 521.377(a), Transportation Code, is
4-24 amended to read as follows:

4-25 (a) The department, on payment of the applicable fee, shall
4-26 reinstate a person's license or, if the person otherwise qualifies
4-27 for a license, issue the license, if:

4-28 (1) the department receives notification from the
4-29 clerk of the court in which the person was convicted that the person
4-30 has successfully completed an educational program under Section
4-31 521.374(a)(1) or equivalent education in a residential treatment
4-32 facility under Section 521.374(a)(2) [this subchapter]; and

4-33 (2) the person's driver's license has been suspended
4-34 or license application denied for at least the period provided by
4-35 Section 521.372(c).

4-36 SECTION 4. (a) The change in law made by this Act to
4-37 Section 13, Article 42.12, Code of Criminal Procedure, applies to a
4-38 defendant placed on community supervision on or after the effective
4-39 date of this Act, regardless of whether the offense for which the
4-40 defendant was placed on community supervision occurred before, on,
4-41 or after that date.

4-42 (b) The change in law made by this Act to Subchapter P,
4-43 Chapter 521, Transportation Code, applies to a person whose
4-44 driver's license is suspended on final conviction of an offense on
4-45 or after the effective date of this Act, regardless of whether the
4-46 offense occurred before, on, or after that date.

4-47 SECTION 5. This Act takes effect September 1, 2015.

4-48 * * * * *