

House Bill 642
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

No equivalent provision.

SENATE VERSION (IE)

SECTION __. Section 106.071(e), Alcoholic Beverage Code, is amended to read as follows:

(e) Community service ordered under this section must be related to education about or prevention of misuse of alcohol or drugs, as applicable, if programs or services providing that education are available in the community in which the court is located. If programs or services providing that education are not available, the court may order community service that it considers appropriate for rehabilitative purposes. [FA1]

SECTION __. Section 106.115(a), Alcoholic Beverage Code, is amended to read as follows:

(a) On the placement of a minor on deferred disposition for an offense under Section 49.02, Penal Code, or under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court shall require the defendant to attend an alcohol awareness program approved by the Department of State Health Services under this section, a drug education program approved by the Department of State Health Services in accordance with Section 521.374, Transportation Code, or a drug and alcohol driving awareness program approved by the Texas Education Agency. On conviction of a minor of an offense under one or more of those sections, the court, in addition to assessing a fine as provided by those sections, shall require a defendant who has not been previously convicted of an offense under one of those sections to attend an alcohol awareness program, a drug education program, or a drug and alcohol driving awareness program described by this subsection. If the defendant has been previously convicted once or more of an offense under one or more of those sections, the court may require the defendant to attend an alcohol awareness program, a drug education program, or a drug and alcohol driving

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awareness program described by this subsection. If the defendant is younger than 18 years of age, the court may require the parent or guardian of the defendant to attend the program with the defendant. The Department of State Health Services:

- (1) is responsible for the administration of the certification of approved alcohol awareness programs;
- (2) may charge a nonrefundable application fee for:
 - (A) initial certification of the approval; or
 - (B) renewal of the certification;
- (3) shall adopt rules regarding alcohol awareness programs approved under this section; and
- (4) shall monitor, coordinate, and provide training to a person who provides an alcohol awareness program. [FA1]

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

(n)(1) 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, 106.025, 106.04, 106.041, 106.05, or 106.07, Alcoholic Beverage Code, or Section 49.02, Penal Code, or an offense involving possession of a controlled substance or marihuana under Section 481.115, 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121, Health and Safety Code, the judge may require the defendant as a condition of community supervision to attend, as appropriate, an alcohol awareness program approved under Section 106.115, 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,

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Transportation Code.

(2) 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, the judge shall require the defendant to pay the cost of attending the program. The judge may allow the defendant to pay the cost of attending the program in installments during the term of community supervision.

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

(b) During the deferral period, the judge may require the defendant to:

- (1) post a bond in the amount of the fine assessed to secure payment of the fine;
- (2) pay restitution to the victim of the offense in an amount not to exceed the fine assessed;
- (3) submit to professional counseling;
- (4) submit to diagnostic testing for alcohol or a controlled substance or drug;
- (5) submit to a psychosocial assessment;
- (6) participate in an alcohol or drug abuse treatment or education program, such as:

(A) 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

(B) an alcohol awareness program described by Section 106.115, Alcoholic Beverage Code;

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- (7) pay the costs of any diagnostic testing, psychosocial assessment, or participation in a treatment or education program either directly or through the court as court costs;
- (8) complete a driving safety course approved under Chapter 1001, Education Code, or another course as directed by the judge;
- (9) present to the court satisfactory evidence that the defendant has complied with each requirement imposed by the judge under this article; and
- (10) comply with any other reasonable condition.

(g) 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, the judge shall require the defendant to pay the cost of attending the program. The judge may allow the defendant to pay the cost of attending the program in installments during the deferral period.

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

(h-1) 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) If the child is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision that

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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. Section 54.047, Family Code, is amended to read as follows:

Sec. 54.047. ALCOHOL OR DRUG RELATED OFFENSE.

(a) 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 [or delinquent conduct] 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, the court may 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.

(b) 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, the court may order that the child attend an alcohol awareness program described by Section 106.115, Alcoholic Beverage Code.

(c) The court shall, in addition to any order described by Subsection (a) or (b), [subject to a finding under Section 54.04(e),] order[, in addition to any other order authorized by this title,] that, in the manner provided by Section 106.071(d), Alcoholic Beverage Code:

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- (1) the child perform community service; and
- (2) the child's driver's license or permit be suspended or that the child be denied issuance of a driver's license or permit.
- (d) An order under this section:
 - (1) is subject to a finding under Section 54.04(c); and
 - (2) may be issued in addition to any other order authorized by this title.
- (e) The Department of State Health Services:
 - (1) is responsible for the administration of the certification of drug education programs;
 - (2) may charge a nonrefundable application fee for:
 - (A) initial certification of approval; or
 - (B) renewal of the certification;
 - (3) shall adopt rules regarding drug education programs approved under this section; and
 - (4) shall monitor and provide training to a person who provides a drug education program.
- (f) 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, the court shall require the child's parent or a guardian of the child to pay the cost of attending the program. The court shall allow the child's parent or guardian to pay the cost of attending the program in installments.

SECTION 5. Section 521.374(a), Transportation Code, is amended to read as follows:

- (a) A person whose license is suspended under Section 521.372 may attend an educational program, approved by the Department of State Health Services [~~Texas Commission on Alcohol and Drug Abuse~~] under rules adopted by the

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executive commissioner of the Health and Human Services Commission [~~commission~~] and the department, that is designed to educate persons on the dangers of drug abuse.

SECTION 6. This Act takes effect September 1, 2015.

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SECTION 6. Same as House version.

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