

By: White, Anderson of Dallas

H.B. No. 117

A BILL TO BE ENTITLED

AN ACT

relating to ethyl alcohol monitoring as a condition of community supervision for certain intoxication offenses; authorizing the imposition of costs.

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

SECTION 1. Article 42A.001, Code of Criminal Procedure, is amended by adding Subdivision (3-a) to read as follows:

(3-a) "Ethyl alcohol monitoring device" means:

(A) a device worn by the defendant that detects ethyl alcohol in the defendant's perspiration through transdermal testing; or

(B) a portable ethyl alcohol detection device carried by the defendant that:

(i) requires the defendant at specified or random intervals to submit a breath sample;

(ii) analyzes and records the sample;

(iii) transmits the results of the analysis; and

(iv) is capable of verifying that the breath sample was provided by the defendant.

SECTION 2. Subchapter I, Chapter 42A, Code of Criminal Procedure, is amended by adding Article 42A.4081 to read as follows:

Art. 42A.4081. USE OF ETHYL ALCOHOL MONITORING DEVICE. (a)

1 This article applies to a defendant placed on community
2 supervision:

3 (1) for whom the judge may order or is required to
4 order the installation and use of an ignition interlock device
5 under Article 42A.408; or

6 (2) who is subject to an order under Section 49.09(h),
7 Penal Code, that requires the installation and use of an ignition
8 interlock device.

9 (b) A judge may require the defendant to submit to ethyl
10 alcohol monitoring under this article:

11 (1) if the defendant certifies that the defendant does
12 not own or have regular access to a motor vehicle; or

13 (2) in addition to the requirement that the defendant
14 install and use an ignition interlock device.

15 (c) In determining under Subsection (b)(2) whether to
16 require a defendant to submit to ethyl alcohol monitoring under
17 this article in addition to installing and using an ignition
18 interlock device, the court shall consider whether the defendant
19 has previously failed to comply with an order requiring the
20 installation and use of an ignition interlock device.

21 (d) The judge must specify the date by which the defendant
22 must begin wearing or using the ethyl alcohol monitoring device.

23 (e) The judge may revoke community supervision and order the
24 defendant to the term of confinement specified in the defendant's
25 sentence if:

26 (1) the defendant refuses to wear or use the ethyl
27 alcohol monitoring device;

1 (2) the defendant tampers with or otherwise attempts
2 to disable the device;

3 (3) the device shows that the defendant has violated a
4 condition of community supervision; or

5 (4) the defendant fails to pay the costs of ethyl
6 alcohol monitoring, if:

7 (A) payment is ordered under Subsection (f) as a
8 condition of community supervision; and

9 (B) the judge determines that the defendant is
10 not indigent and is financially able to make the payments as
11 ordered.

12 (f) The cost of the ethyl alcohol monitoring device may be
13 ordered paid as a condition of community supervision by the
14 defendant to the court or to the entity designated by the judge
15 under Subsection (g) or waived or reduced based on the defendant's
16 ability to pay. The court may impose a reasonable payment schedule
17 for the cost of the device, wholly or partly, as applicable, for a
18 period not to exceed twice the period of the court's order requiring
19 ethyl alcohol monitoring.

20 (g) The judge may designate an appropriate entity to verify
21 that the defendant is wearing or using the ethyl alcohol monitoring
22 device appropriately, and to monitor the device.

23 SECTION 3. The change in law made by this Act applies only
24 to a defendant who is placed on community supervision on or after
25 the effective date of this Act, regardless of whether the offense
26 for which the defendant is placed on community supervision is
27 committed before, on, or after that date.

1 SECTION 4. This Act takes effect September 1, 2017.