

By: White

H.B. No. 117

A BILL TO BE ENTITLED

AN ACT

1
2 relating to ethyl alcohol monitoring as a condition of community
3 supervision for certain intoxication offenses; authorizing the
4 imposition of costs.

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

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

8 (3-a) "Ethyl alcohol monitoring device" means:

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

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

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

16 (ii) analyzes and records the sample;

17 (iii) transmits the results of the
18 analysis; and

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

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

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

1 This article applies to a defendant for whom a judge may order or is
2 required to order the installation and use of an ignition interlock
3 device under Article 42A.408.

4 (b) Notwithstanding Article 42A.408 and subject to
5 Subsection (g), in lieu of or in addition to requiring a defendant
6 to install and use an ignition interlock device under Article
7 42A.408, the judge may require the defendant to submit to ethyl
8 alcohol monitoring under this article. The judge shall consider
9 requiring a defendant to submit to ethyl alcohol monitoring under
10 this article if the defendant has failed to comply with an order
11 requiring the installation and use of an ignition interlock device.

12 (c) The judge must specify the date by which the defendant
13 must begin wearing or using the ethyl alcohol monitoring device.

14 (d) The judge may revoke community supervision and order the
15 defendant to the term of confinement specified in the defendant's
16 sentence if:

17 (1) the defendant refuses to wear or use the ethyl
18 alcohol monitoring device;

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

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

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

25 (A) payment is ordered under Subsection (e) as a
26 condition of community supervision; and

27 (B) the judge determines that the defendant is

1 not indigent and is financially able to make the payments as
2 ordered.

3 (e) The cost of the ethyl alcohol monitoring device may be
4 ordered paid as a condition of community supervision by the
5 defendant to the court or to the entity designated by the judge
6 under Subsection (f) or waived or reduced based on the defendant's
7 ability to pay. The court may impose a reasonable payment schedule
8 for the cost of the device, wholly or partly, as applicable, for a
9 period not to exceed twice the period of the court's order requiring
10 ethyl alcohol monitoring.

11 (f) The judge may designate an appropriate entity to verify
12 that the defendant is wearing or using the ethyl alcohol monitoring
13 device appropriately, and to monitor the device.

14 (g) A judge may not order ethyl alcohol monitoring in lieu
15 of an ignition interlock device under this article for a defendant
16 subject to Section 49.09(h), Penal Code. The judge may order ethyl
17 alcohol monitoring in addition to the ignition interlock device
18 required under that section.

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

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