

By: King of Parker

H.B. No. 833

Substitute the following for H.B. No. 833:

By: Moody

C.S.H.B. No. 833

A BILL TO BE ENTITLED

AN ACT

relating to the administration of educational programs for persons placed on community supervision for certain intoxication offenses.

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

SECTION 1. Article 42A.403, Code of Criminal Procedure, is amended by amending Subsections (a) and (d) and adding Subsection (a-1) to read as follows:

(a) A judge who places on community supervision a defendant convicted of an offense under Sections 49.04-49.08, Penal Code, shall require as a condition of community supervision that the defendant ~~[attend and]~~ successfully complete, before the 181st day after the date community supervision is granted, an educational program designed to rehabilitate persons who have driven while intoxicated that is jointly approved by:

(1) the Texas Department of Licensing and Regulation ~~[Department of State Health Services];~~

(2) the Department of Public Safety;

(3) the traffic safety section of the traffic operations division of the Texas Department of Transportation; and

(4) the community justice assistance division of the Texas Department of Criminal Justice.

(a-1) The educational program approved under Subsection (a) may be provided through classroom instruction or through an online format approved by the Texas Department of Licensing and Regulation

1 for administration over the Internet.

2 (d) In determining good cause, the judge may consider but is
3 not limited to:

4 (1) the defendant's school and work schedule;

5 (2) the defendant's health; and

6 (3) if an educational program is not available to the
7 defendant in an online format administered over the Internet:

8 (A) the distance that the defendant must travel
9 to attend an educational program provided through classroom
10 instruction; and

11 (B) [~~(4)~~] the fact that the defendant resides out
12 of state, does not have a valid driver's license, or does not have
13 access to transportation.

14 SECTION 2. Article 42A.406(a), Code of Criminal Procedure,
15 is amended to read as follows:

16 (a) If a defendant is required as a condition of community
17 supervision to successfully complete [~~attend~~] an educational
18 program under Article 42A.403 or 42A.404, or if the court waives the
19 educational program requirement under Article 42A.403, the court
20 clerk shall immediately report that fact to the Department of
21 Public Safety, on a form prescribed by the department, for
22 inclusion in the defendant's driving record. If the court grants
23 an extension of time in which the defendant may complete the
24 educational program under Article 42A.403, the court clerk shall
25 immediately report that fact to the Department of Public Safety on a
26 form prescribed by the department. The clerk's report under this
27 subsection must include the beginning date of the defendant's

community supervision.

SECTION 3. Article 42A.407(c), Code of Criminal Procedure, is amended to read as follows:

(c) If the Department of Public Safety receives notice that a defendant has been required to successfully complete ~~attend~~ a subsequent educational program under Article 42A.403 or attend a subsequent educational program under Article 42A.404, although the previously required educational program ~~attendance~~ had been waived, but the judge has not ordered a period of suspension, the department shall:

(1) suspend the defendant's driver's license; or

(2) issue an order prohibiting the defendant from obtaining a license for a period of one year.

SECTION 4. Section 521.342(b), Transportation Code, is amended to read as follows:

(b) The department shall suspend for one year the license of a person who is under 21 years of age and is convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, regardless of whether the person is required to successfully complete ~~attend~~ an educational program under Article 42A.403, Code of Criminal Procedure, that is designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person is placed under community supervision under Chapter 42A, Code of Criminal Procedure, and is required as a condition of the community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Article 42A.408 of that chapter. If the person is required to successfully complete

1 ~~[attend]~~ such a program and does not successfully complete the
2 program before the end of the person's suspension, the department
3 shall suspend the person's license or continue the suspension, as
4 appropriate, until the department receives proof that the person
5 has successfully completed the program. On the person's
6 successful completion of the program, the person's instructor shall
7 give notice to the department and to the community supervision and
8 corrections department in the manner provided by Article
9 [42A.406](#)(b), Code of Criminal Procedure.

10 SECTION 5. Section [521.344](#)(h), Transportation Code, is
11 amended to read as follows:

12 (h) The hearing shall be held in a municipal or justice
13 court in the county of the person's residence in the manner provided
14 for a suspension hearing under Subchapter N. The issues to be
15 determined at the hearing are whether the person has successfully
16 completed a required educational program and whether the period for
17 completion of the program has passed. If the presiding officer
18 determines that the educational program has not been completed and
19 the period for completion has passed, the officer shall confirm the
20 revocation or prohibition and shall notify the department of that
21 fact. The director may not revoke or prohibit the license if the
22 officer finds that the program has been completed, that, before the
23 hearing, the court that originally imposed the requirement to
24 successfully complete ~~[attend]~~ an educational program has granted
25 an extension that has not expired, or that the period for completion
26 has not passed. If the person or the person's agent fails to appear
27 at the hearing, the department shall revoke the person's license

1 until the department receives notice of successful completion of
2 the educational program.

3 SECTION 6. The change in law made by this Act applies to a
4 person who is placed on community supervision on or after the
5 effective date of this Act, regardless of whether the underlying
6 conduct giving rise to the placement on community supervision
7 occurred before, on, or after that date.

8 SECTION 7. This Act takes effect September 1, 2017.