

By: King of Parker

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 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 in an online format administered over the Internet.

(d) In determining good cause, the judge may consider but is

1 not limited to:

- 2 (1) the defendant's school and work schedule;
- 3 (2) the defendant's health; and
- 4 (3) if an educational program is not available to the
5 defendant in an online format administered over the Internet:

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

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

12 SECTION 2. Article 42A.404, Code of Criminal Procedure, is
13 amended by amending Subsections (a) and (b) and adding Subsection
14 (a-1) to read as follows:

15 (a) The judge shall require a defendant who is punished
16 under Section 49.09, Penal Code, to [~~attend and~~] successfully
17 complete as a condition of community supervision an educational
18 program for repeat offenders that is approved by the Department of
19 State Health Services.

20 (a-1) The educational program for repeat offenders approved
21 under Subsection (a) may be provided through classroom instruction
22 or in an online format administered over the Internet.

23 (b) The judge may waive the educational program requirement
24 only if the defendant by a motion in writing shows good cause. In
25 determining good cause, the judge may consider:

- 26 (1) the defendant's school and work schedule;
- 27 (2) the defendant's health; and

1 (3) if an educational program for repeat offenders is
2 not available to the defendant in an online format administered
3 over the Internet:

4 (A) the distance that the defendant must travel
5 to attend an educational program provided through classroom
6 instruction; and

7 (B) the fact that [~~(4) whether~~] the defendant
8 resides out of state or does not have access to transportation.

9 SECTION 3. Article 42A.406(a), Code of Criminal Procedure,
10 is amended to read as follows:

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

24 SECTION 4. Articles 42A.407(b) and (c), Code of Criminal
25 Procedure, are amended to read as follows:

26 (b) Notwithstanding Sections 521.344(d)-(i),
27 Transportation Code, if under Article 42A.404 the judge requires a

1 defendant punished under Section 49.09, Penal Code, to successfully
2 complete [~~attend~~] an educational program as a condition of
3 community supervision, or waives the required completion of
4 [~~attendance for~~] the program, and the defendant has previously been
5 required to successfully complete [~~attend~~] such an educational
6 program, or the required completion of [~~attendance at~~] the program
7 had been waived, the judge shall order the suspension of the
8 defendant's driver's license for a period determined by the judge
9 according to the following schedule:

10 (1) not less than 90 days or more than one year, if the
11 defendant is convicted under Sections 49.04-49.08, Penal Code;

12 (2) not less than 180 days or more than two years, if
13 the defendant is punished under Section 49.09(a) or (b), Penal
14 Code; or

15 (3) not less than one year or more than two years, if
16 the defendant is convicted of a second or subsequent offense under
17 Sections 49.04-49.08, Penal Code, committed within five years of
18 the date on which the most recent preceding offense was committed.

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

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

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

1 SECTION 5. Section 521.342(b), Transportation Code, is
2 amended to read as follows:

3 (b) The department shall suspend for one year the license of
4 a person who is under 21 years of age and is convicted of an offense
5 under Section 49.04, 49.045, 49.07, or 49.08, Penal Code,
6 regardless of whether the person is required to successfully
7 complete [~~attend~~] an educational program under Article 42A.403,
8 Code of Criminal Procedure, that is designed to rehabilitate
9 persons who have operated motor vehicles while intoxicated, unless
10 the person is placed under community supervision under Chapter 42A,
11 Code of Criminal Procedure, and is required as a condition of the
12 community supervision to not operate a motor vehicle unless the
13 vehicle is equipped with the device described by Article 42A.408 of
14 that chapter. If the person is required to successfully complete
15 [~~attend~~] such a program and does not successfully complete the
16 program before the end of the person's suspension, the department
17 shall suspend the person's license or continue the suspension, as
18 appropriate, until the department receives proof that the person
19 has successfully completed the program. On the person's
20 successful completion of the program, the person's instructor shall
21 give notice to the department and to the community supervision and
22 corrections department in the manner provided by Article
23 42A.406(b), Code of Criminal Procedure.

24 SECTION 6. Section 521.344(h), Transportation Code, is
25 amended to read as follows:

26 (h) The hearing shall be held in a municipal or justice
27 court in the county of the person's residence in the manner provided

1 for a suspension hearing under Subchapter N. The issues to be
2 determined at the hearing are whether the person has successfully
3 completed a required educational program and whether the period for
4 completion of the program has passed. If the presiding officer
5 determines that the educational program has not been completed and
6 the period for completion has passed, the officer shall confirm the
7 revocation or prohibition and shall notify the department of that
8 fact. The director may not revoke or prohibit the license if the
9 officer finds that the program has been completed, that, before the
10 hearing, the court that originally imposed the requirement to
11 successfully complete [~~attend~~] an educational program has granted
12 an extension that has not expired, or that the period for completion
13 has not passed. If the person or the person's agent fails to appear
14 at the hearing, the department shall revoke the person's license
15 until the department receives notice of successful completion of
16 the educational program.

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

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