

By: Metcalf

H.B. No. 2481

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the administration of a veterans treatment court
3 program and the eligibility for deferred adjudication community
4 supervision of certain defendants who are eligible to participate
5 in a veterans treatment court program and who committed certain
6 intoxication offenses and the conditions of that supervision.

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

8 SECTION 1. Article [42A.102](#), Code of Criminal Procedure, is
9 amended by amending Subsection (b) and adding Subsection (c) to
10 read as follows:

11 (b) In all other cases, the judge may grant deferred
12 adjudication community supervision unless:

13 (1) the defendant is charged with an offense:

14 (A) under Section [49.045](#), [49.07](#), or [49.08](#)
15 [~~Sections [49.04](#)–[49.08](#)~~], Penal Code; [~~or~~]

16 (B) under Section [49.04](#), [49.05](#), [49.06](#), or [49.065](#),
17 Penal Code, if, at the time of the offense, the defendant held a
18 commercial driver's license or a commercial learner's permit;

19 (C) for which punishment may be increased under
20 Section [49.09](#), Penal Code; or

21 (D) for which punishment may be increased under
22 Section [481.134](#)(c), (d), (e), or (f), Health and Safety Code, if it
23 is shown that the defendant has been previously convicted of an
24 offense for which punishment was increased under any one of those

1 subsections;

2 (2) the defendant:

3 (A) is charged with an offense under Section
4 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the
5 victim, or a felony described by Article 42A.453(b); and

6 (B) has previously been placed on community
7 supervision for an offense under Paragraph (A);

8 (3) the defendant is charged with an offense under:

9 (A) Section 21.02, Penal Code; or

10 (B) Section 22.021, Penal Code, that is
11 punishable under Subsection (f) of that section or under Section
12 12.42(c)(3) or (4), Penal Code; or

13 (4) the defendant is charged with an offense under
14 Section 19.02, Penal Code, except that the judge may grant deferred
15 adjudication community supervision on determining that the
16 defendant did not cause the death of the deceased, did not intend to
17 kill the deceased or another, and did not anticipate that a human
18 life would be taken.

19 (c) A judge may grant deferred adjudication community
20 supervision to a defendant charged with an offense under Section
21 49.04, 49.05, 49.06, or 49.065, Penal Code, only if:

22 (1) the defendant is eligible to participate in a
23 veterans treatment court program under Section 124.002, Government
24 Code; and

25 (2) the judge requires as a condition of community
26 supervision that the defendant successfully complete a veterans
27 treatment court program under Chapter 124, Government Code.

1 SECTION 2. Article 42A.408, Code of Criminal Procedure, is
2 amended by adding Subsection (e-1) to read as follows:

3 (e-1) A judge granting deferred adjudication community
4 supervision to a defendant for an offense under Section 49.04,
5 49.05, 49.06, or 49.065, Penal Code, may require that the defendant
6 as a condition of community supervision have an ignition interlock
7 device installed on the motor vehicle owned by the defendant or on
8 the vehicle most regularly driven by the defendant and that the
9 defendant not operate for a period of at least six months any motor
10 vehicle that is not equipped with that device.

11 SECTION 3. Section 124.003(b), Government Code, is amended
12 to read as follows:

13 (b) A veterans treatment court program established under
14 this chapter shall make, establish, and publish local procedures to
15 ensure maximum participation of eligible defendants in the program
16 [~~county or counties in which those defendants reside~~].

17 SECTION 4. Sections 124.006(a) and (d), Government Code,
18 are amended to read as follows:

19 (a) A veterans treatment court program that accepts
20 placement of a defendant may transfer responsibility for
21 supervising the defendant's participation in the program to another
22 veterans treatment court program that is located in the county
23 where the defendant works or resides or in a county adjacent to the
24 county where the defendant works or resides. The defendant's
25 supervision may be transferred under this section only with the
26 consent of both veterans treatment court programs and the
27 defendant.

1 (d) If a defendant is charged with an offense in a county
2 that does not operate a veterans treatment court program, the court
3 in which the criminal case is pending may place the defendant in a
4 veterans treatment court program located in the county where the
5 defendant works or resides or in a county adjacent to the county
6 where the defendant works or resides, provided that a program is
7 operated in that county and the defendant agrees to the placement.
8 A defendant placed in a veterans treatment court program in
9 accordance with this subsection must agree to abide by all rules,
10 requirements, and instructions of the program. The court may
11 enforce the rules, requirements, and instructions of the program.

12 SECTION 5. Section 411.072(a), Government Code, is amended
13 to read as follows:

14 (a) This section applies only to a person who:

15 (1) was placed on deferred adjudication community
16 supervision under Subchapter C, Chapter 42A, Code of Criminal
17 Procedure, for a misdemeanor other than a misdemeanor:

18 (A) under Chapter 20, 21, 22, 25, 42, 43, 46, 49,
19 or 71, Penal Code; or

20 (B) with respect to which an affirmative finding
21 under Article 42A.105(f), Code of Criminal Procedure, or former
22 Section 5(k), Article 42.12, Code of Criminal Procedure, was filed
23 in the papers of the case; and

24 (2) has never been previously convicted of or placed
25 on deferred adjudication community supervision for another offense
26 other than a traffic offense that is punishable by fine only.

27 SECTION 6. Section 411.0725(a), Government Code, is amended

1 to read as follows:

2 (a) This section applies only to a person placed on deferred
3 adjudication community supervision under Subchapter C, Chapter
4 42A, Code of Criminal Procedure, who:

5 (1) is not eligible to receive an order of
6 nondisclosure of criminal history record information under Section
7 411.072; and

8 (2) was placed on deferred adjudication community
9 supervision for an offense other than an offense under Chapter 49,
10 Penal Code.

11 SECTION 7. Subchapter E-1, Chapter 411, Government Code, is
12 amended by adding Section 411.0726 to read as follows:

13 Sec. 411.0726. PROCEDURE FOR DEFERRED ADJUDICATION
14 COMMUNITY SUPERVISION; CERTAIN DRIVING WHILE INTOXICATED
15 MISDEMEANORS. (a) This section applies only to a person who was
16 placed on deferred adjudication community supervision under
17 Subchapter C, Chapter 42A, Code of Criminal Procedure, for a
18 misdemeanor:

19 (1) under Section 49.04, Penal Code; and

20 (2) with respect to which no affirmative finding under
21 Article 42A.105(f), Code of Criminal Procedure, was filed in the
22 papers of the case.

23 (b) Notwithstanding any other provision of this subchapter
24 or Subchapter F, a person may petition the court that placed the
25 person on deferred adjudication community supervision for an order
26 of nondisclosure if the person:

27 (1) receives a discharge and dismissal under Article

1 42A.111, Code of Criminal Procedure;

2 (2) satisfies the requirements of Section 411.074; and

3 (3) has never been previously convicted of or placed
4 on deferred adjudication community supervision for another
5 offense, other than a traffic offense that is punishable by fine
6 only.

7 (c) A petition for an order of nondisclosure of criminal
8 history record information filed under this section must include
9 evidence that the person is entitled to file the petition.

10 (d) Except as provided by Subsection (e), after notice to
11 the state, an opportunity for a hearing, and a determination that
12 the person is entitled to file the petition and issuance of an order
13 of nondisclosure of criminal history record information is in the
14 best interest of justice, the court shall issue an order
15 prohibiting criminal justice agencies from disclosing to the public
16 criminal history record information related to the offense giving
17 rise to the deferred adjudication community supervision.

18 (e) A court may not issue an order of nondisclosure of
19 criminal history record information under this section if the
20 attorney representing the state presents evidence sufficient to the
21 court demonstrating that the commission of the offense for which
22 the order is sought resulted in a motor vehicle accident involving
23 another person, including a passenger in a motor vehicle operated
24 by the person seeking the order of nondisclosure.

25 (f) A person may petition the court that placed the person
26 on deferred adjudication community supervision for an order of
27 nondisclosure of criminal history record information under this

1 section only on or after:

2 (1) the second anniversary of the date of completion
3 of the deferred adjudication community supervision and the
4 discharge and dismissal of the case, if the person successfully
5 complied with a condition of community supervision that, for a
6 period of not less than six months, restricted the person's
7 operation of a motor vehicle to a motor vehicle equipped with an
8 ignition interlock device; or

9 (2) the fifth anniversary of the date of completion of
10 the deferred adjudication community supervision and the discharge
11 and dismissal of the case, if the court that placed the person on
12 deferred adjudication community supervision did not order the
13 person to comply with a condition of community supervision
14 described by Subdivision (1) for the period described by that
15 subdivision.

16 SECTION 8. Section 411.0727(e), Government Code, is amended
17 to read as follows:

18 (e) A person is not entitled to petition the court for an
19 order of nondisclosure of criminal history record information under
20 this section if the person's entry into the veterans treatment
21 court program arose as the result of placement on deferred
22 adjudication community supervision or a conviction for ~~of~~ an
23 offense involving the operation of a motor vehicle while
24 intoxicated.

25 SECTION 9. Section 49.09(g), Penal Code, is amended to read
26 as follows:

27 (g) A conviction may be used for purposes of enhancement

1 under this section or enhancement under Subchapter D, Chapter 12,
2 but not under both this section and Subchapter D. For purposes of
3 this section, a person is considered to have been convicted of an
4 offense under Section 49.04, 49.05, 49.06, or 49.065 if the person
5 was placed on deferred adjudication community supervision for the
6 offense under Article 42A.102, Code of Criminal Procedure.

7 SECTION 10. The changes in law made by this Act to Articles
8 42A.102 and 42A.408, Code of Criminal Procedure, apply only to the
9 eligibility for deferred adjudication community supervision of a
10 defendant for an offense committed on or after the effective date of
11 this Act. The eligibility for deferred adjudication community
12 supervision of a defendant for an offense committed before the
13 effective date of this Act is governed by the law in effect on the
14 date the offense was committed, and the former law is continued in
15 effect for that purpose. For purposes of this section, an offense
16 was committed before the effective date of this Act if any element
17 of the offense occurred before that date.

18 SECTION 11. The change in law made by this Act to Section
19 49.09, Penal Code, applies only to an offense committed on or after
20 the effective date of this Act. An offense committed before the
21 effective date of this Act is governed by the law in effect on the
22 date the offense was committed, and the former law is continued in
23 effect for that purpose. For purposes of this section, an offense
24 was committed before the effective date of this Act if any element
25 of the offense occurred before that date.

26 SECTION 12. This Act takes effect September 1, 2019.