

SENATE AMENDMENTS

2nd Printing

By: Murr, Moody, White, Wray, Wu

H.B. No. 3582

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for certain intoxication offenses and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses; enhancing a criminal penalty.

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

SECTION 1. Article 17.441(a), Code of Criminal Procedure, is amended to read as follows:

(a) Except as provided by Subsection (b), a magistrate shall require on release that a defendant charged with a subsequent offense under Section 49.04, 49.05, or 49.06 [~~Sections 49.04-49.06~~], Penal Code, or an offense under Section 49.045, 49.07, or 49.08 of that code:

(1) have installed on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant, a device that uses a deep-lung breath analysis mechanism to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath of the operator; and

(2) not operate any motor vehicle unless the vehicle is equipped with that device.

SECTION 2. Article 42A.102(b), Code of Criminal Procedure, is amended to read as follows:

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

(1) the defendant is charged with an offense:

(A) under Section 49.045, 49.05, 49.065, 49.07, or 49.08 [~~Sections 49.04-49.08~~], Penal Code; [~~or~~]

(B) under Section 49.04 or 49.06, Penal Code, and, at the time of the offense:

(i) the defendant held a commercial driver's license or a commercial learner's permit; or

(ii) the defendant's alcohol concentration, as defined by Section 49.01, Penal Code, was 0.16 or more;

(C) for which punishment may be increased under Section 49.09, Penal Code; or

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

(2) the defendant:

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

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

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

(A) Section 21.02, Penal Code; or

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

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

7 SECTION 3. Article 42A.408, Code of Criminal Procedure, is
8 amended by adding Subsection (e-1) to read as follows:

9 (e-1) A judge granting deferred adjudication community
10 supervision to a defendant for an offense under Section 49.04 or
11 49.06, Penal Code, shall require that the defendant as a condition
12 of community supervision have an ignition interlock device
13 installed on the motor vehicle owned by the defendant or on the
14 vehicle most regularly driven by the defendant and that the
15 defendant not operate any motor vehicle that is not equipped with
16 that device, unless the judge finds that restricting the defendant
17 to the operation of a motor vehicle equipped with an ignition
18 interlock device would not be in the best interest of society and
19 enters that finding in the record. This subsection applies
20 regardless of whether the defendant would be required to have an
21 ignition interlock device installed on conviction of the offense
22 for which deferred adjudication community supervision is granted.
23 If the judge determines the defendant is unable to pay for the
24 ignition interlock device, the judge may impose a reasonable
25 payment schedule, as provided by Subsection (f). If the defendant
26 provides the court evidence under Section 708.158, Transportation
27 Code, sufficient to establish that the defendant is indigent for

1 purposes of that section, the judge may enter in the record a
2 finding that the defendant is indigent and reduce the costs to the
3 defendant by ordering a waiver of the installation charge for the
4 ignition interlock device and a 50 percent reduction of the monthly
5 device monitoring fee. A reduction in costs ordered under this
6 subsection does not apply to any fees that may be assessed against
7 the defendant if the ignition interlock device detects ethyl
8 alcohol on the breath of the person attempting to operate the motor
9 vehicle.

10 SECTION 4. Section 411.072(a), Government Code, is amended
11 to read as follows:

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

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

16 (A) under:

17 (i) Section 49.04 or 49.06, Penal Code; or

18 (ii) Chapter 20, 21, 22, 25, 42, 43, 46, or
19 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 5. Section 411.0725(a), Government Code, is amended

to read as follows:

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

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

(2) was placed on deferred adjudication community supervision for an offense other than an offense under Section 49.04 or 49.06, Penal Code.

SECTION 6. Subchapter E-1, Chapter 411, Government Code, is amended by adding Section 411.0726 to read as follows:

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

(1) under Section 49.04 or 49.06, Penal Code; and

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

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

(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

section only on or after:

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

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

SECTION 7. Sections 49.09(b) and (g), Penal Code, are amended to read as follows:

(b) An offense under Section 49.04, 49.045, 49.05, 49.06, or 49.065 is a felony of the third degree if it is shown on the trial of the offense that the person has previously been convicted:

(1) one time of an offense under Section 49.08 or an offense under the laws of another state if the offense contains elements that are substantially similar to the elements of an offense under Section 49.08; or

(2) two times of any other offense relating to the operating of a motor vehicle while intoxicated, operating an aircraft while intoxicated, operating a watercraft while

1 intoxicated, or operating or assembling an amusement ride while
2 intoxicated.

3 (g) A conviction may be used for purposes of enhancement
4 under this section or enhancement under Subchapter D, Chapter 12,
5 but not under both this section and Subchapter D. For purposes of
6 this section, a person is considered to have been convicted of an
7 offense under Section 49.04 or 49.06 if the person was placed on
8 deferred adjudication community supervision for the offense under
9 Article 42A.102, Code of Criminal Procedure.

10 SECTION 8. The change in law made by this Act to Article
11 17.441, Code of Criminal Procedure, applies to a defendant released
12 on bond on or after the effective date of this Act, regardless of
13 whether the offense for which the person was arrested occurred
14 before, on, or after that date.

15 SECTION 9. The changes in law made by this Act to Articles
16 42A.102 and 42A.408, Code of Criminal Procedure, apply only to the
17 eligibility for deferred adjudication community supervision of a
18 defendant for an offense committed on or after the effective date of
19 this Act. The eligibility for deferred adjudication community
20 supervision of a defendant for 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 10. The changes in law made by this Act to Section
27 49.09, Penal Code, apply only to an offense committed on or after

1 the effective date of this Act. An offense committed before the
2 effective date of this Act is governed by the law in effect on the
3 date the offense was committed, and the former law is continued in
4 effect for that purpose. For purposes of this section, an offense
5 was committed before the effective date of this Act if any element
6 of the offense occurred before that date.

7 SECTION 11. This Act takes effect September 1, 2019.

ADOPTED

MAY 15 2019

Latoy Spaw
Secretary of the Senate

By: *Joe Menendez*

H.B. No. 3582

Substitute the following for H.B. No. 3582:

By: *Joe Menendez*

C.S. H.B. No. 3582

John Whitman

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for certain intoxication offenses, the conditions of bond for defendants charged with certain intoxication offenses, and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses.

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

SECTION 1. Article 17.441(a), Code of Criminal Procedure, is amended to read as follows:

(a) Except as provided by Subsection (b), a magistrate shall require on release that a defendant charged with a subsequent offense under Section 49.04, 49.05, or 49.06 [~~Sections 49.04-49.06~~], Penal Code, or an offense under Section 49.045, 49.07, or 49.08 of that code:

(1) have installed on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant, a device that uses a deep-lung breath analysis mechanism to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath of the operator; and

(2) not operate any motor vehicle unless the vehicle is equipped with that device.

SECTION 2. Article 42A.102(b), Code of Criminal Procedure, is amended to read as follows:

(b) In all other cases, the judge may grant deferred

1 adjudication community supervision unless:

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

3 (A) under Section 49.045, 49.05, 49.065, 49.07,
4 or 49.08 [~~Sections 49.04-49.08~~], Penal Code; [~~or~~]

5 (B) under Section 49.04 or 49.06, Penal Code,
6 and, at the time of the offense;

7 (i) the defendant held a commercial
8 driver's license or a commercial learner's permit; or

9 (ii) the defendant's alcohol concentration,
10 as defined by Section 49.01, Penal Code, was 0.15 or more;

11 (C) for which punishment may be increased under
12 Section 49.09, Penal Code; or

13 (D) for which punishment may be increased under
14 Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it
15 is shown that the defendant has been previously convicted of an
16 offense for which punishment was increased under any one of those
17 subsections;

18 (2) the defendant:

19 (A) is charged with an offense under Section
20 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the
21 victim, or a felony described by Article 42A.453(b); and

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

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

25 (A) Section 21.02, Penal Code; or

26 (B) Section 22.021, Penal Code, that is
27 punishable under Subsection (f) of that section or under Section

1 12.42(c)(3) or (4), Penal Code; or

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

8 SECTION 3. Article 42A.408, Code of Criminal Procedure, is
9 amended by adding Subsections (e-1) and (e-2) to read as follows:

10 (e-1) Except as provided by Subsection (e-2), a judge
11 granting deferred adjudication community supervision to a
12 defendant for an offense under Section 49.04 or 49.06, Penal Code,
13 shall require that the defendant as a condition of community
14 supervision have an ignition interlock device installed on the
15 motor vehicle owned by the defendant or on the vehicle most
16 regularly driven by the defendant and that the defendant not
17 operate any motor vehicle that is not equipped with that device.

18 (e-2) A judge may waive the ignition interlock requirement
19 under Subsection (e-1) for a defendant if, based on a controlled
20 substance and alcohol evaluation of the defendant, the judge
21 determines and enters in the record that restricting the defendant
22 to the use of an ignition interlock is not necessary for the safety
23 of the community.

24 SECTION 4. Section 411.072(a), Government Code, is amended
25 to read as follows:

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

27 (1) was placed on deferred adjudication community

1 supervision under Subchapter C, Chapter 42A, Code of Criminal
2 Procedure, for a misdemeanor other than a misdemeanor:

3 (A) under:

4 (i) Section 49.04 or 49.06, Penal Code; or

5 (ii) Chapter 20, 21, 22, 25, 42, 43, 46, or
6 71, Penal Code; or

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

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

14 SECTION 5. Section 411.0725(a), Government Code, is amended
15 to read as follows:

16 (a) This section applies only to a person placed on deferred
17 adjudication community supervision under Subchapter C, Chapter
18 42A, Code of Criminal Procedure, who:

19 (1) is not eligible to receive an order of
20 nondisclosure of criminal history record information under Section
21 411.072; and

22 (2) was placed on deferred adjudication community
23 supervision for an offense other than an offense under Section
24 49.04 or 49.06, Penal Code.

25 SECTION 6. Subchapter E-1, Chapter 411, Government Code, is
26 amended by adding Section 411.0726 to read as follows:

27 Sec. 411.0726. PROCEDURE FOR DEFERRED ADJUDICATION

1 COMMUNITY SUPERVISION; CERTAIN DRIVING WHILE INTOXICATED AND
2 BOATING WHILE INTOXICATED MISDEMEANORS. (a) This section applies
3 only to a person who was placed on deferred adjudication community
4 supervision under Subchapter C, Chapter 42A, Code of Criminal
5 Procedure, for a misdemeanor;

6 (1) under Section 49.04 or 49.06, Penal Code; and

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

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

14 (1) receives a discharge and dismissal under Article
15 42A.111, Code of Criminal Procedure;

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

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

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

24 (d) Except as provided by Subsection (e), after notice to
25 the state, an opportunity for a hearing, and a determination that
26 the person is entitled to file the petition and issuance of an order
27 of nondisclosure of criminal history record information is in the

1 best interest of justice, the court shall issue an order
2 prohibiting criminal justice agencies from disclosing to the public
3 criminal history record information related to the offense giving
4 rise to the deferred adjudication community supervision.

5 (e) A court may not issue an order of nondisclosure of
6 criminal history record information under this section if the
7 attorney representing the state presents evidence sufficient to the
8 court demonstrating that the commission of the offense for which
9 the order is sought resulted in a motor vehicle accident involving
10 another person, including a passenger in a motor vehicle operated
11 by the person seeking the order of nondisclosure.

12 (f) A person may petition the court that placed the person
13 on deferred adjudication community supervision for an order of
14 nondisclosure of criminal history record information under this
15 section only on or after the second anniversary of the date of
16 completion of the deferred adjudication community supervision and
17 the discharge and dismissal of the case.

18 SECTION 7. Sections 49.09(b) and (g), Penal Code, are
19 amended to read as follows:

20 (b) An offense under Section 49.04, 49.045, 49.05, 49.06, or
21 49.065 is a felony of the third degree if it is shown on the trial of
22 the offense that the person has previously been convicted:

23 (1) one time of an offense under Section 49.08 or an
24 offense under the laws of another state if the offense contains
25 elements that are substantially similar to the elements of an
26 offense under Section 49.08; or

27 (2) two times of any other offense relating to the

1 operating of a motor vehicle while intoxicated, operating an
2 aircraft while intoxicated, operating a watercraft while
3 intoxicated, or operating or assembling an amusement ride while
4 intoxicated.

5 (g) A conviction may be used for purposes of enhancement
6 under this section or enhancement under Subchapter D, Chapter 12,
7 but not under both this section and Subchapter D. For purposes of
8 this section, a person is considered to have been convicted of an
9 offense under Section 49.04 or 49.06 if the person was placed on
10 deferred adjudication community supervision for the offense under
11 Article 42A.102, Code of Criminal Procedure.

12 SECTION 8. (a) The change in law made by this Act to Article
13 17.441, Code of Criminal Procedure, applies to a defendant released
14 on bond on or after the effective date of this Act, regardless of
15 whether the offense for which the person was arrested occurred
16 before, on, or after that date.

17 (b) The changes in law made by this Act to Articles 42A.102
18 and 42A.408, Code of Criminal Procedure, apply only to the
19 eligibility for deferred adjudication community supervision of a
20 defendant for an offense committed on or after the effective date of
21 this Act. The eligibility for deferred adjudication community
22 supervision of a defendant for an offense committed before the
23 effective date of this Act is governed by the law in effect on the
24 date the offense was committed, and the former law is continued in
25 effect for that purpose. For purposes of this subsection, an
26 offense was committed before the effective date of this Act if any
27 element of the offense occurred before that date.

1 (c) The changes in law made by this Act to Section 49.09,
2 Penal Code, apply only to an offense committed on or after the
3 effective date of this Act. An offense committed before the
4 effective date of this Act is governed by the law in effect on the
5 date the offense was committed, and the former law is continued in
6 effect for that purpose. For purposes of this subsection, an
7 offense was committed before the effective date of this Act if any
8 element of the offense occurred before that date.

9 SECTION 9. This Act takes effect September 1, 2019.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 15, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3582 by Murr (Relating to the punishment for certain intoxication offenses, the conditions of bond for defendants charged with certain intoxication offenses, and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure, the Government Code, and the Penal Code to permit judges to place defendants on deferred adjudication when charged with certain intoxication offenses.

The bill would amend the Code of Criminal Procedure to allow a magistrate to require a defendant charged with the offense of driving while intoxicated with a child passenger to install a motor vehicle ignition interlock device as a condition of bond release unless the magistrate determines the device is not necessary for the safety of the community after a controlled substance and alcohol evaluation of the defendant has been conducted.

The bill would enhance the offense of driving while intoxicated with a child passenger from a state jail felony to a third degree felony under certain circumstances. This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Based on the analysis of the Office of Court Administration, the Department of Public Safety, the Department of Transportation, and the Department of Criminal Justice, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

The bill would take effect September 1, 2019.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
Department of Public Safety, 601 Department of Transportation, 696

Department of Criminal Justice

LBB Staff: WP, SD, JPo, LBO, MW, DA, AF, ER

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 10, 2019

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3582 by Murr (relating to the punishment for certain intoxication offenses, the conditions of bond for defendants charged with certain intoxication offenses, and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure, the Government Code, and the Penal Code to permit judges to place defendants on deferred adjudication when charged with certain intoxication offenses.

The bill would amend the Code of Criminal Procedure to allow a magistrate to require a defendant charged with the offense of driving while intoxicated with a child passenger to install a motor vehicle ignition interlock device as a condition of bond release unless the magistrate determines the device is not necessary for the safety of the community after a controlled substance and alcohol evaluation of the defendant has been conducted.

The bill would enhance the offense of driving while intoxicated with a child passenger from a state jail felony to a third degree felony under certain circumstances. This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Based on the analysis of the Office of Court Administration, the Department of Public Safety, the Department of Transportation, and the Department of Criminal Justice, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

The bill would take effect September 1, 2019.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
Department of Public Safety, 601 Department of Transportation, 696

Department of Criminal Justice

LBB Staff: WP, JPo, LBO, MW, DA, AF, ER

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 7, 2019

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3582 by Murr (Relating to the punishment for certain intoxication offenses and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses; enhancing a criminal penalty.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure, the Government Code, and the Penal Code to permit judges to place defendants on deferred adjudication when charged with certain intoxication offenses.

The bill would amend the Code of Criminal Procedure to allow a magistrate to require a defendant charged with the offense of driving while intoxicated with a child passenger to install a motor vehicle ignition interlock device as a condition of bond release.

The bill would enhance the offense of driving while intoxicated with a child passenger from a state jail felony to a third degree felony under certain circumstances. This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Based on the analysis of the Office of Court Administration, the Department of Public Safety, the Department of Transportation, and the Department of Criminal Justice, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

The bill would take effect September 1, 2019.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
 Department of Public Safety, 601 Department of Transportation, 696
 Department of Criminal Justice

LBB Staff: WP, JPo, LBO, MW, DA, AF, ER

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 11, 2019

TO: Honorable James White, Chair, House Committee on Corrections

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3582 by Murr (relating to the punishment for certain intoxication offenses and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses; enhancing a criminal penalty.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure, the Government Code, and the Penal Code to permit judges to place defendants on deferred adjudication when charged with certain intoxication offenses.

The bill would enhance the offense of driving while intoxicated with a child passenger from a state jail felony to a third degree felony under certain circumstances. This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies. For more information please see the criminal justice impact statement.

Based on the analysis of the Office of Court Administration, the Department of Public Safety, the Department of Transportation, and the Department of Criminal Justice, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

The bill would take effect September 1, 2019.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
 Department of Public Safety, 601 Department of Transportation, 696
 Department of Criminal Justice

LBB Staff: WP, LBO, MW, DA, AF, JPo, ER

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 3, 2019

TO: Honorable James White, Chair, House Committee on Corrections

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3582 by Murr (Relating to the punishment for certain intoxication offenses and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure, the Government Code, and the Penal Code to permit judges to place defendants on deferred adjudication when charged with certain intoxication offenses.

The bill would enhance the offense of driving while intoxicated with a child passenger from a state jail felony to a third degree felony under certain circumstances. This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies. For more information please see the criminal justice impact statement.

Based on the analysis of the Office of Court Administration, the Department of Public Safety, the Department of Transportation, and the Department of Criminal Justice, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

The bill would take effect September 1, 2019.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 405
 Department of Public Safety, 601 Department of Transportation, 696
 Department of Criminal Justice

LBB Staff: WP, LBO, MW, DA, AF, JPo, ER

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

May 10, 2019

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3582 by Murr (relating to the punishment for certain intoxication offenses, the conditions of bond for defendants charged with certain intoxication offenses, and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses.), **Committee Report 2nd House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to the punishment for certain intoxication offenses and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses. Under the provisions of the bill, the offense of driving while intoxicated with a child passenger would be enhanced from a state jail felony to a third degree felony under certain circumstances.

A third degree felony is punishable by confinement in prison for a term from 2 to 10 years, and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony level offenses are subject to an optional fine not to exceed \$10,000.

Enhancing the penalty for a criminal offense is expected to result in additional demands upon the correctional resources of counties or of the state due to longer terms of supervision in the community or longer terms of confinement within state correctional institutions. In fiscal year 2018, 2,446 individuals were arrested, 572 were placed under felony community supervision, and 344 were admitted into state correctional institutions for the offense of driving while intoxicated with a child passenger. After removing those individuals whose previous intoxication offense conviction history did not meet the conditions necessary for penalty enhancement, this analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: WP, JPo, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

May 7, 2019

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3582 by Murr (Relating to the punishment for certain intoxication offenses and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses; enhancing a criminal penalty.), **As Engrossed**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to the punishment for certain intoxication offenses and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses. Under the provisions of the bill, the offense of driving while intoxicated with a child passenger would be enhanced from a state jail felony to a third degree felony under certain circumstances.

A third degree felony is punishable by confinement in prison for a term from 2 to 10 years, and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony level offenses are subject to an optional fine not to exceed \$10,000.

Enhancing the penalty for a criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community or longer terms of confinement within state correctional institutions. In fiscal year 2018, 2,446 individuals were arrested, 572 were placed under felony community supervision, and 344 were admitted into state correctional institutions for the offense of driving while intoxicated with a child passenger. After removing those individuals whose previous intoxication offense conviction history did not meet the conditions necessary for penalty enhancement, this analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: WP, LM, JPo

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

April 11, 2019

TO: Honorable James White, Chair, House Committee on Corrections

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3582 by Murr (relating to the punishment for certain intoxication offenses and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses; enhancing a criminal penalty.), **Committee Report 1st House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to the punishment for certain intoxication offenses and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses. Under the provisions of the bill, the offense of driving while intoxicated with a child passenger would be enhanced from a state jail felony to a third degree felony under certain circumstances.

A third degree felony is punishable by confinement in prison for a term from 2 to 10 years, and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony level offenses are subject to an optional fine not to exceed \$10,000.

Enhancing the penalty for a criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community or longer terms of confinement within state correctional institutions. In fiscal year 2018, 2,446 individuals were arrested, 572 were placed under felony community supervision, and 344 were admitted into state correctional institutions for the offense of driving while intoxicated with a child passenger. After removing those individuals whose previous intoxication offense conviction history did not meet the conditions necessary for penalty enhancement, this analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: WP, LM, JPo

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

April 3, 2019

TO: Honorable James White, Chair, House Committee on Corrections

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3582 by Murr (Relating to the punishment for certain intoxication offenses and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to the punishment for certain intoxication offenses and the eligibility for deferred adjudication community supervision of defendants who committed certain intoxication offenses. Under the provisions of the bill, the offense of driving while intoxicated with a child passenger would be enhanced from a state jail felony to a third degree felony under certain circumstances.

A third degree felony is punishable by confinement in prison for a term from 2 to 10 years, and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony level offenses are subject to an optional fine not to exceed \$10,000.

Enhancing the penalty for a criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community or longer terms of confinement in state correctional institutions. In fiscal year 2018, 2,446 individuals were arrested, 572 were placed under felony community supervision, and 344 were admitted into state correctional institutions for the offense of driving while intoxicated with a child passenger. After removing those individuals whose previous intoxication offense conviction history did not meet the conditions necessary for penalty enhancement, this analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: WP, LM, JPo