By:  Guillen, Muñoz, Jr., Ramos, Raymond, H.B. No. 4184

     Guerra

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of certain drug and alcohol related court-ordered educational programs; providing administrative penalties; requiring occupational licenses; authorizing fees; creating criminal offenses.

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

SECTION 1.  Title 2, Government Code, is amended by adding Subtitle M to read as follows:

SUBTITLE M. COURT PROGRAMS REGULATION

CHAPTER 171. EDUCATIONAL PROGRAMS REGULATED BY TEXAS DEPARTMENT OF LICENSING AND REGULATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 171.0001.  DEFINITIONS. In this chapter:

(1)  "Alcohol educational program for minors" means an alcohol awareness program described by Section 106.115, Alcoholic Beverage Code.

(2)  "Certificate of program completion" means a uniform, serially numbered certificate that is given by a program provider to a participant who successfully completes a court-ordered program.

(3)  "Commission" means the Texas Commission of Licensing and Regulation.

(4)  "Court-ordered program" means any of the following programs:

(A)  the alcohol educational program for minors;

(B)  the drug offense educational program;

(C)  the intervention program for intoxication offenses; or

(D)  the educational program for intoxication offenses.

(5)  "Department" means the Texas Department of Licensing and Regulation.

(6)  "Drug offense educational program" means an educational program described by Section 521.374(a)(1), Transportation Code.

(7)  "Educational program for intoxication offenses" means an educational program described by Article 42A.403, Code of Criminal Procedure.

(8)  "Executive director" means the executive director of the department.

(9)  "Instructor" means a person licensed by the department to instruct a court-ordered program.

(10)  "Intervention program for intoxication offenses" means an educational program described by Article 42A.404, Code of Criminal Procedure.

(11)  "Participant" means a person who attends, takes, or completes a court-ordered program.

(12)  "Program provider" means a person licensed by the department to offer or provide a court-ordered program.

Sec. 171.0002.  APPLICABILITY. This chapter does not affect a court’s jurisdiction or authority to require court-ordered programs. A court may specify the type and format of the court-ordered program that must be completed by the individual.

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION, DEPARTMENT, AND EXECUTIVE DIRECTOR

Sec. 171.0051.  GENERAL POWERS AND DUTIES. The commission, department, or executive director, as appropriate, shall administer and enforce this chapter.

Sec. 171.0052.  POWERS AND DUTIES OF DEPARTMENT. The department shall:

(1)  prescribe the application form for a license under this chapter;

(2)  evaluate the qualifications of applicants; and

(3)  enforce minimum standards applicable to program providers, instructors, and court-ordered programs.

Sec. 171.0053.  RULES. (a) The commission shall adopt rules necessary to administer and enforce this chapter. The rules regulating court-ordered programs under this chapter must include:

(1)  the criteria for program administration;

(2)  the structure, length, content, and manner of program delivery;

(3)  the criteria for a participant to successfully complete the program;

(4)  maintenance of program and participant records;

(5)  reports to be filed with the department; and

(6)  the use of supplemental educational materials.

(b)  The commission may adopt rules for court-ordered programs related to:

(1)  program security and attendance verification;

(2)  participant privacy;

(3)  the conduct of instructors;

(4)  teaching requirements for instructors; and

(5)  participant evaluations, screenings, and exit interviews.

(c)  The commission may require different information to be reported for each type of court-ordered program.

(d)  The commission may consult with other state agencies in the development of rules under this section.

Sec. 171.0054.  FEES. (a) The commission by rule shall set fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing this chapter, which may include fees for:

(1)  the issuance or renewal of a license;

(2)  instructor training courses, materials, and any applicable examinations or end-of-course assessments;

(3)  instructor continuing education courses;

(4)  the issuance of a certificate of program completion or a certificate number; and

(5)  the curricula and materials used for a court-ordered program.

(b)  A fee imposed by the department under this chapter is not refundable.

(c)  The department or the department's authorized representative may collect a fee imposed under this chapter. An authorized representative of the department may charge a fee only in accordance with the terms of a contract with the department.

Sec. 171.0055.  FORMAT OF COURT-ORDERED PROGRAM. A provider may offer a court-ordered program under this chapter in-person or online.

Sec. 171.0056.  CODE OF ETHICS. The commission shall adopt and publish a code of ethics for license holders.

Sec. 171.0057.  ELECTRONIC TRANSMISSION OF PROGRAM INFORMATION. The department may develop and implement procedures to electronically transmit information regarding court-ordered programs to municipal and justice courts.

Sec. 171.0058.  MEMORANDUM OF UNDERSTANDING. The department may enter into a memorandum of understanding with the Department of Public Safety, the Texas Department of Transportation, the Texas Department of Criminal Justice, the Health and Human Services Commission, the Department of State Health Services, the Office of Court Administration of the Texas Judicial System, or any other appropriate state agency regarding the development of rules, curricula, certificates of program completion, or certificate numbers for court-ordered programs.

SUBCHAPTER C. PROGRAM PROVIDER LICENSE REQUIREMENTS

Sec. 171.0101.  PROGRAM PROVIDER LICENSE REQUIRED. A person may not provide or offer to provide a court-ordered program unless the person holds a program provider license issued under this chapter.

Sec. 171.0102.  ELIGIBILITY REQUIREMENTS FOR PROGRAM PROVIDER LICENSE. (a) The commission by rule shall establish eligibility requirements and criteria for the issuance of a program provider license under this chapter.

(b)  The commission by rule may establish eligibility requirements based on:

(1)  the type of court-ordered program the applicant seeks to provide;

(2)  whether the program is offered in-person or online;

(3)  if the program is offered in-person, the location where the program will be provided; and

(4)  the location of the applicant's headquarters and any branch locations.

Sec. 171.0103.  PROGRAM PROVIDER LICENSE ENDORSEMENTS. (a) A license for a program provider must be endorsed with one or more of the following classifications:

(1)  the alcohol educational program for minors;

(2)  the drug offense educational program;

(3)  the educational program for intoxication offenses; or

(4)  the intervention program for intoxication offenses.

(b)  A license holder may not provide a court-ordered program for which the person's license is not endorsed.

Sec. 171.0104.  ISSUANCE OF PROGRAM PROVIDER LICENSE. The department shall issue a program provider license to an applicant who:

(1)  meets the eligibility requirements and criteria established by commission rule;

(2)  submits a completed application to the department on the form prescribed by the department; and

(3)  pays the nonrefundable license application fee set by the commission.

SUBCHAPTER D. INSTRUCTOR LICENSE REQUIREMENTS AND ISSUANCE

Sec. 171.0151.  INSTRUCTOR LICENSE REQUIRED. A person may not instruct or represent that the person is an instructor of a court-ordered program to which this chapter applies unless the person holds an instructor license issued under this subchapter with the appropriate endorsement for that program.

Sec. 171.0152.  ISSUANCE OF INSTRUCTOR LICENSE. (a) The department shall issue an instructor license for a particular court-ordered program to an applicant who:

(1)  meets the eligibility requirements and criteria established by commission rule;

(2)  submits a completed application to the department on the form prescribed by the department;

(3)  successfully completes the instructor training course and any applicable examinations or end-of-course assessments under Section 171.0155; and

(4)  pays the license application fee.

(b)  An instructor shall carry the instructor license at all times while providing instruction at a court-ordered program.

Sec. 171.0153.  INSTRUCTOR LICENSE ENDORSEMENTS. (a) An instructor license must be endorsed with one or more of the following classifications:

(1)  the alcohol educational program for minors;

(2)  the drug offense educational program;

(3)  the educational program for intoxication offenses; or

(4)  the intervention program for intoxication offenses.

(b)  A license holder may not instruct a court-ordered program for which the person's license is not endorsed.

Sec. 171.0154.  ELIGIBILITY REQUIREMENTS FOR INSTRUCTOR LICENSE. The commission by rule shall establish requirements for the issuance of an instructor license under this chapter. The commission by rule may establish eligibility criteria for instructors based on the type of court-ordered program for which the applicant seeks an endorsement, including education and experience requirements.

Sec. 171.0155.  INSTRUCTOR TRAINING COURSE; EXAMINATION OR ASSESSMENT. (a) The commission by rule shall establish the requirements for the instructor training course and any applicable examinations or end-of-course assessments.

(b)  The department or the department's authorized representative shall provide the training course and administer examinations for applicants for an instructor license.

(c)  The applicant must pay all fees associated with the instructor training course and any applicable examinations or end-of-course assessments.

SUBCHAPTER E. RESTRICTIONS ON LICENSE

Sec. 171.0201.  LICENSE NOT TRANSFERABLE. A license issued under this chapter is not transferable or assignable.

Sec. 171.0202.  PROGRAM PROVIDER CHANGE OF OWNERSHIP. Not less than 30 days before the date of a change in ownership of a program provider, the proposed new owner must apply for a new program provider license with an endorsement for each type of court-ordered program to be offered by the new owner.

SUBCHAPTER F. LICENSE TERM AND RENEWAL

Sec. 171.0251.  LICENSE TERM. A license issued under this chapter is valid for one or two years from the date of issuance as prescribed by commission rule.

Sec. 171.0252.  LICENSE RENEWAL. The commission by rule shall establish the requirements for renewing a license issued under this chapter, including the payment of applicable fees.

Sec. 171.0253.  CONTINUING EDUCATION FOR RENEWAL OF INSTRUCTOR LICENSE. The commission by rule shall establish the minimum number of hours of continuing education that a license holder must complete to renew an instructor license issued under Subchapter D. The commission may require a different number of hours of continuing education for each type of court-ordered program for which the license holder holds an endorsement.

SUBCHAPTER G. REQUIREMENTS FOR COURT-ORDERED PROGRAMS

Sec. 171.0301.  GENERAL REQUIREMENTS FOR COURT-ORDERED PROGRAMS. (a) The department or the department's authorized representative shall develop the curriculum and educational materials to be used for each court-ordered program.

(b)  A court-ordered program must be:

(1)  provided by a program provider licensed for the type of program;

(2)  taught by an instructor with the appropriate endorsement for the program using curriculum approved by the department; and

(3)  delivered in the program format or at the location approved by the department.

(c)  A program provider may only employ or contract with an instructor who holds a license with an endorsement for the program being provided.

Sec. 171.0302.  DISCRIMINATION PROHIBITED. A program provider or instructor may not discriminate against participants based on sex, race, religion, age, national or ethnic origin, or disability.

Sec. 171.0303.  CERTIFICATE OF PROGRAM COMPLETION. (a) The department shall issue or provide for the issuance of a certificate of program completion or certificate number showing completion of a court-ordered program.

(b)  The commission by rule shall provide for the form, design, content, and distribution of certificates of program completion and certificate numbers.

(c)  The commission by rule shall adopt a system for program providers to provide for the appropriate care, custody, and control of certificates of program completion and certificate numbers.

(d)  The commission by rule shall establish requirements regarding the submission of a copy of a certificate of program completion or certificate number to the appropriate court, state agency, or community supervision and corrections department.

(e)  A program provider shall submit to the department information regarding programs, instructors, and participants. The commission may require different information to be reported for each type of court-ordered program.

(f)  A program provider shall submit to the department required information relating to certificates of program completion issued by the program provider in a manner prescribed by the department.

Sec. 171.0304.  DISPLAY OF LICENSE AND DEPARTMENT CONTACT INFORMATION. The commission by rule shall establish:

(1)  requirements for providers and instructors regarding the displaying or posting of a license or providing notice of a license number to a participant of a court-ordered program; and

(2)  notification methods for providers and instructors to provide a participant with the name of the department, mailing address, telephone number, and Internet website address for the purpose of submitting a complaint regarding the court-ordered program.

Sec. 171.0305.  ADVERTISEMENTS. The commission by rule may establish requirements regarding advertisements for providers, instructors, and court-ordered programs.

Sec. 171.0306.  INFORMATION REQUIRED. A program provider shall maintain and make available to participants information regarding course fees, schedules, methods of course delivery, and locations, as applicable, for all court-ordered programs provided by the program provider.

SUBCHAPTER H. PROHIBITED PRACTICES AND ENFORCEMENT

Sec. 171.0351.  PROHIBITED PRACTICES BY ALL LICENSE HOLDERS. A license holder may not:

(1)  use advertising that is false, misleading, or deceptive; or

(2)  issue, sell, trade, or transfer a certificate of program completion or a certificate number to a person who has not successfully completed the applicable court-ordered program or who is not otherwise authorized to possess the certificate or number.

Sec. 171.0352.  GROUNDS FOR DISCIPLINARY ACTIONS. The commission or executive director may deny an application for an initial or renewal license, revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder who:

(1)  violates this chapter, a rule adopted under this chapter, or an order of the commission or executive director;

(2)  permits or engages in misrepresentation, fraud, or deceit regarding a court-ordered program provided or instructed by the license holder;

(3)  engages in conduct that harms, endangers, or is likely to harm or endanger the health, welfare, or safety of a participant or the public as defined by commission rule;

(4)  violates the code of ethics adopted and published by the commission; or

(5)  violates a standard of practice or conduct as adopted by commission rule.

Sec. 171.0353.  DISCIPLINARY ACTION; ADMINISTRATIVE PENALTY. If a person violates this chapter or an order issued or a rule adopted under this chapter, the person is subject to any action or penalty under Subchapter F or G, Chapter 51, Occupations Code.

Sec. 171.0354.  AUDITS OF PROVIDERS AND PROGRAMS. (a) The department may conduct audits of the program providers and the court-ordered programs to verify compliance with this chapter. These audits may be conducted on-site, remotely, or through other means, and may include audits of records and courses.

(b)  A program provider, instructor, or any person associated with a court-ordered program shall:

(1)  cooperate with the department during an audit under this section;

(2)  provide or make available to the department any documents or records related to the audit, unless otherwise prohibited by law; and

(3)  provide the department with access to courses and facilities related to the audit.

Sec. 171.0355.  INVESTIGATIONS. (a) A program provider, instructor, or any person associated with a court-ordered program shall:

(1)  cooperate with the department during an investigation of a complaint under this chapter; and

(2)  provide or make available to the department on request any documents or records related to the investigation, including all instructor records, unless otherwise prohibited by law.

(b)  The department may contract with the Department of Public Safety to provide investigative assistance in the enforcement of this chapter.

Sec. 171.0356.  UNLAWFUL TRANSFER OF CERTIFICATE OF PROGRAM COMPLETION OR CERTIFICATE NUMBER; OFFENSE. (a) A person commits an offense if the person knowingly sells, trades, issues, or otherwise transfers, or possesses with intent to sell, trade, issue, or otherwise transfer, a certificate of program completion or a certificate number to a person not authorized to possess the certificate or number.

(b)  An offense under this section is a felony of the third degree.

Sec. 171.0357.  UNLAWFUL POSSESSION OF CERTIFICATE OF PROGRAM COMPLETION OR CERTIFICATE NUMBER; OFFENSE. (a) A person commits an offense if the person knowingly possesses a certificate of program completion or a certificate number that the person is not authorized to possess under this chapter.

(b)  An offense under this section is a felony of the third degree.

SECTION 2.  The heading to Section 106.115, Alcoholic Beverage Code, is amended to read as follows:

Sec. 106.115.  ATTENDANCE AT ALCOHOL AWARENESS PROGRAM [~~COURSE~~]; LICENSE SUSPENSION.

SECTION 3.  Section 106.115, Alcoholic Beverage Code, is amended by amending Subsections (a) and (b-2) and adding Subsections (a-1) and (a-2) to read as follows:

(a)  On the placement of a minor on deferred disposition for an offense under Section 49.02, Penal Code, or under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court shall require the defendant to successfully complete one of the following programs:

(1)  [~~attend~~] an alcohol awareness program [~~approved by the Texas Department of Licensing and Regulation~~] under this section that is regulated under Chapter 171, Government Code;

(2)  [~~,~~] a drug education program under [~~approved by the Department of State Health Services in accordance with~~] Section 521.374(a)(1) [~~521.374~~], Transportation Code, that is regulated under Chapter 171, Government Code; or

(3)  a drug and alcohol driving awareness program under Section 1001.103, Education Code [~~approved by the Texas Education Agency~~].

(a-1)  On conviction of a minor of an offense under Section 49.02, Penal Code, or Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07 [~~one or more of those sections~~], the court, in addition to assessing a fine as provided by those sections, shall require a defendant who has not been previously convicted of an offense under one of those sections to successfully complete [~~attend~~] an alcohol awareness program, a drug education program, or a drug and alcohol driving awareness program described by Subsection (a) [~~this subsection~~]. If the defendant has been previously convicted once or more of an offense under one or more of those sections, the court may require the defendant to successfully complete [~~attend~~] an alcohol awareness program, a drug education program, or a drug and alcohol driving awareness program described by Subsection (a) [~~this subsection~~].

(a-2)  If the defendant is younger than 18 years of age, the court may require the parent or guardian of the defendant to successfully complete [~~attend~~] the program described by Subsection (a) with the defendant. [~~The Texas Department of Licensing and Regulation or Texas Commission of Licensing and Regulation, as appropriate:~~

[~~(1)  is responsible for the administration of the certification of approved alcohol awareness programs;~~

[~~(2)  may charge a nonrefundable application fee for:~~

[~~(A)  initial certification of the approval; or~~

[~~(B)  renewal of the certification;~~

[~~(3)  shall adopt rules regarding alcohol awareness programs approved under this section; and~~

[~~(4)  shall monitor, coordinate, and provide training to a person who provides an alcohol awareness program.~~]

(b-2)  For purposes of Subsection (b-1), if the defendant is enrolled in an institution of higher education located in a county in which access to an alcohol awareness program is readily available, the court may consider the defendant to be a resident of that county. If the defendant is not enrolled in such an institution of higher education or if the court does not consider the defendant to be a resident of the county in which the institution is located, the defendant's residence is the residence listed on the defendant's driver's license or personal identification certificate issued by the Department of Public Safety. If the defendant does not have a driver's license or personal identification certificate issued by the Department of Public Safety, the defendant's residence is the residence on the defendant's voter registration certificate. If the defendant is not registered to vote, the defendant's residence is the residence on file with the public school district on which the defendant's enrollment is based. If the defendant is not enrolled in public school, the defendant's residence is determined [~~as provided~~] by the court [~~commission rule~~].

SECTION 4.  The heading to Article 42A.403, Code of Criminal Procedure, is amended to read as follows:

Art. 42A.403.  EDUCATIONAL PROGRAM FOR CERTAIN INTOXICATION OFFENSES [~~OFFENDERS~~]; WAIVER OR EXTENSION OF TIME.

SECTION 5.  Articles 42A.403(a) and (d), Code of Criminal Procedure, are amended 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 regulated [~~jointly approved~~] by[~~:~~

[~~(1)~~]  the Texas Department of Licensing and Regulation under Chapter 171, Government Code [~~;~~

[~~(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~~].

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

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

(2)  the defendant's health;

(3)  the distance that the defendant must travel to attend an in-person educational program; [~~and~~]

(4)  the fact that the defendant resides out of state, does not have a valid driver's license, or does not have access to transportation; and

(5)  whether the defendant has access to reliable Internet service sufficient to successfully complete an educational program offered online.

SECTION 6.  The heading to Article 42A.404, Code of Criminal Procedure, is amended to read as follows:

Art. 42A.404.  EDUCATIONAL PROGRAM FOR CERTAIN REPEAT INTOXICATION OFFENSES [~~OFFENDERS~~]; WAIVER.

SECTION 7.  Articles 42A.404(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a)  The judge shall require a defendant who is punished under Section 49.09, Penal Code, to attend and successfully complete as a condition of community supervision an educational program for repeat offenders that is regulated [~~approved~~] by the Texas Department of Licensing and Regulation under Chapter 171, Government Code.

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

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

(2)  the defendant's health;

(3)  the distance that the defendant must travel to attend an in-person educational program; [~~and~~]

(4)  whether the defendant resides out of state or does not have access to transportation; and

(5)  whether the defendant has access to reliable Internet service sufficient to successfully complete an educational program offered online.

SECTION 8.  Article 42A.406(a), Code of Criminal Procedure, is amended to read as follows:

(a)  If a defendant is required as a condition of community supervision to successfully complete [~~attend~~] an educational program under Article 42A.403 or 42A.404, or if the court waives the educational program requirement under Article 42A.403 or the defendant successfully completes equivalent education under Article 42A.4045, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the defendant's driving record. If the court grants an extension of time in which the defendant may complete the educational program under Article 42A.403, the court clerk shall immediately report that fact to the Department of Public Safety on a form prescribed by the department. The clerk's report under this subsection must include the beginning date of the defendant's community supervision.

SECTION 9.  Articles 42A.407(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b)  Notwithstanding Sections 521.344(d)-(i), Transportation Code, if under Article 42A.404 the judge requires a defendant punished under Section 49.09, Penal Code, to successfully complete [~~attend~~] an educational program as a condition of community supervision, or waives the required completion of [~~attendance for~~] the program, and the defendant has previously been required to successfully complete [~~attend~~] such an educational program, or the required completion of [~~attendance at~~] the program had been waived, the judge shall order the suspension of the defendant's driver's license for a period determined by the judge according to the following schedule:

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

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

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

(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 42A.404, although the previously required completion [~~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 10.  Article 42A.514(a), Code of Criminal Procedure, is amended to read as follows:

(a)  If a judge grants community supervision to a defendant younger than 18 years of age convicted of an alcohol-related offense under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, Alcoholic Beverage Code, or Section 49.02, Penal Code, or an offense involving possession of a controlled substance or marihuana under Section 481.115, 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121, Health and Safety Code, the judge may require the defendant as a condition of community supervision to successfully complete [~~attend~~], as appropriate:

(1)  an alcohol awareness program [~~approved~~] under Section 106.115, Alcoholic Beverage Code, that is regulated by the Texas Department of Licensing and Regulation under Chapter 171, Government Code; or

(2)  a drug education program that is designed to educate persons on the dangers of drug abuse [~~and is approved by the Department of State Health Services~~] in accordance with Section 521.374(a)(1) [~~521.374~~], Transportation Code, and that is regulated by the Texas Department of Licensing and Regulation under Chapter 171, Government Code.

SECTION 11.  Articles 45.051(b) and (g), Code of Criminal Procedure, are amended to read as follows:

(b)  During the deferral period, the judge may require the defendant to:

(1)  post a bond in the amount of the fine assessed as punishment for the offense to secure payment of the fine;

(2)  pay restitution to the victim of the offense in an amount not to exceed the fine assessed as punishment for the offense;

(3)  submit to professional counseling;

(4)  submit to diagnostic testing for alcohol or a controlled substance or drug;

(5)  submit to a psychosocial assessment;

(6)  successfully complete [~~participate in~~] an alcohol or drug abuse treatment or education program, such as:

(A)  a drug education program that is designed to educate persons on the dangers of drug abuse [~~and is approved by the Department of State Health Services~~] in accordance with Section 521.374(a)(1) [~~521.374~~], Transportation Code, and that is regulated by the Texas Department of Licensing and Regulation under Chapter 171, Government Code; or

(B)  an alcohol awareness program described by Section 106.115, Alcoholic Beverage Code, that is regulated by the Texas Department of Licensing and Regulation under Chapter 171, Government Code;

(7)  pay as reimbursement fees the costs of any diagnostic testing, psychosocial assessment, or participation in a treatment or education program either directly or through the court as court costs;

(8)  complete a driving safety course approved under Chapter 1001, Education Code, or another course as directed by the judge;

(9)  present to the court satisfactory evidence that the defendant has complied with each requirement imposed by the judge under this article; and

(10)  comply with any other reasonable condition.

(g)  If a judge requires a defendant under Subsection (b) to successfully complete [~~attend~~] an alcohol awareness program or drug education program as described by Subdivision (6) of that subsection, unless the judge determines that the defendant is indigent and unable to pay the cost, the judge shall require the defendant to pay a reimbursement fee for the cost of attending the program. The judge may allow the defendant to pay the fee in installments during the deferral period.

SECTION 12.  Sections 53.03(h-1) and (h-2), Family Code, are amended to read as follows:

(h-1)  If the child is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision that violates Section 481.115, 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121, Health and Safety Code, deferred prosecution under this section may include a condition that the child successfully complete [~~attend~~] a drug education program that is designed to educate persons on the dangers of drug abuse [~~and is approved by the Department of State Health Services~~] in accordance with Section 521.374(a)(1) [~~521.374~~], Transportation Code, and that is regulated by the Texas Department of Licensing and Regulation under Chapter 171, Government Code.

(h-2)  If the child is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision that violates Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, Alcoholic Beverage Code, or Section 49.02, Penal Code, deferred prosecution under this section may include a condition that the child successfully complete [~~attend~~] an alcohol awareness program described by Section 106.115, Alcoholic Beverage Code, that is regulated by the Texas Department of Licensing and Regulation under Chapter 171, Government Code.

SECTION 13.  Sections 54.047(a), (b), and (f), Family Code, are amended to read as follows:

(a)  If the court or jury finds at an adjudication hearing for a child that the child engaged in delinquent conduct or conduct indicating a need for supervision that constitutes a violation of Section 481.115, 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121, Health and Safety Code, the court may order that the child successfully complete [~~attend~~] a drug education program that is designed to educate persons on the dangers of drug abuse [~~and is approved by the Department of State Health Services~~] in accordance with Section 521.374(a)(1) [~~521.374~~], Transportation Code, and that is regulated by the Texas Department of Licensing and Regulation under Chapter 171, Government Code.

(b)  If the court or jury finds at an adjudication hearing for a child that the child engaged in delinquent conduct or conduct indicating a need for supervision that violates the alcohol-related offenses in Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, Alcoholic Beverage Code, or Section 49.02, Penal Code, the court may order that the child successfully complete [~~attend~~] an alcohol awareness program described by Section 106.115, Alcoholic Beverage Code, that is regulated by the Texas Department of Licensing and Regulation under Chapter 171, Government Code.

(f)  If the court orders a child under Subsection (a) or (b) to successfully complete [~~attend~~] a drug education program or alcohol awareness program, unless the court determines that the parent or guardian of the child is indigent and unable to pay the cost, the court shall require the child's parent or a guardian of the child to pay the cost of attending the program. The court shall allow the child's parent or guardian to pay the cost of [~~attending~~] the program in installments.

SECTION 14.  Section 461A.052(a), Health and Safety Code, is amended to read as follows:

(a)  The department shall:

(1)  provide for research and study of the problems of chemical dependency in this state and seek to focus public attention on those problems through public information and education programs;

(2)  plan, develop, coordinate, evaluate, and implement constructive methods and programs for the prevention, intervention, treatment, and rehabilitation of chemical dependency in cooperation with federal and state agencies, local governments, organizations, and persons, and provide technical assistance, funds, and consultation services for statewide and community-based services;

(3)  cooperate with and enlist the assistance of:

(A)  other state, federal, and local agencies;

(B)  hospitals and clinics;

(C)  public health, welfare, and criminal justice system authorities;

(D)  educational and medical agencies and organizations; and

(E)  other related public and private groups and persons;

(4)  expand chemical dependency services for children when funds are available because of the long-term benefits of those services to this state and its citizens;

(5)  sponsor, promote, and conduct educational programs on the prevention and treatment of chemical dependency, and maintain a public information clearinghouse to purchase and provide books, literature, audiovisuals, and other educational material for the programs;

(6)  sponsor, promote, and conduct training programs for persons delivering prevention, intervention, treatment, and rehabilitation services and for persons in the criminal justice system or otherwise in a position to identify the service needs of persons with a chemical dependency and their families;

(7)  require programs rendering services to persons with a chemical dependency to safeguard those persons' legal rights of citizenship and maintain the confidentiality of client records as required by state and federal law;

(8)  maximize the use of available funds for direct services rather than administrative services;

(9)  consistently monitor the expenditure of funds and the provision of services by all grant and contract recipients to assure that the services are effective and properly staffed and meet the standards adopted under this chapter;

(10)  make the monitoring reports prepared under Subdivision (9) a matter of public record;

(11)  license treatment facilities under Chapter 464;

(12)  use funds appropriated to the department for purposes of providing chemical dependency services and related programs to carry out those purposes and maximize the overall state allotment of federal funds;

(13)  plan, develop, coordinate, evaluate, and implement constructive methods and programs to provide healthy alternatives for youth at risk of selling controlled substances; and

(14)  submit to the federal government reports and strategies necessary to comply with Section 1926 of the federal Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act, Pub. L. No. 102-321 (42 U.S.C. Section 300x-26), and coordinate the reports and strategies with appropriate state governmental entities[~~; and~~

[~~(15)  regulate, coordinate, and provide training for alcohol awareness courses required under Section 106.115, Alcoholic Beverage Code, and may charge a fee for an activity performed by the department under this subdivision~~].

SECTION 15.  Section 521.374(a), Transportation Code, as amended by Chapters 838 (S.B. 202), 851 (S.B. 1070), and 1004 (H.B. 642), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

(a)  A person whose license is suspended under Section 521.372 may:

(1)  successfully complete [~~attend~~] an in-person or online educational program, approved by the Texas Department of Licensing and Regulation [~~Department of State Health Services~~] under Chapter 171, Government Code [~~rules adopted by the Texas Commission of Licensing and Regulation executive commissioner of the Health and Human Services Commission and the department~~], that is designed to educate persons on the dangers of drug abuse; or

(2)  successfully complete education on the dangers of drug abuse approved by the Department of State Health Services as equivalent to the educational program described by Subdivision (1), while the person is a resident of a facility for the treatment of drug abuse or chemical dependency, including:

(A)  a substance abuse treatment facility or substance abuse felony punishment facility operated by the Texas Department of Criminal Justice under Section 493.009, Government Code;

(B)  a community corrections facility, as defined by Section 509.001, Government Code; or

(C)  a chemical dependency treatment facility licensed under Chapter 464, Health and Safety Code.

SECTION 16.  Section 521.374(b), Transportation Code, is amended to read as follows:

(b)  The period of suspension or prohibition under Section 521.372(c) continues for an indefinite period until the individual successfully completes the in-person or online educational program under Subsection (a)(1) or is released from the residential treatment facility at which the individual successfully completed equivalent education under Subsection (a)(2), as applicable.

SECTION 17.  Section 521.375, Transportation Code, as amended by Chapters 838 (S.B. 202) and 851 (S.B. 1070), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

Sec. 521.375.  JOINT ADOPTION OF RULES. (a) The Texas Commission of Licensing and Regulation and the department shall jointly adopt rules for the qualification and approval of providers of in-person and online educational programs under Section 521.374(a)(1) [~~521.374~~].

(a-1)  The executive commissioner of the Health and Human Services Commission and the department shall jointly adopt rules for the qualification and approval of[~~:~~

[~~(1)  providers of educational programs under Section 521.374(a)(1); and~~

[~~(2)~~]  equivalent education provided in a residential treatment facility described by Section 521.374(a)(2).

(b)  The Texas Department of Licensing and Regulation shall publish the jointly adopted rules under Subsection (a).

(c)  The Department of State Health Services shall publish the jointly adopted rules under Subsection (a-1).

SECTION 18.  Section 521.376, Transportation Code, as amended by Chapters 838 (S.B. 202) and 851 (S.B. 1070), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

Sec. 521.376.  DUTIES OF TEXAS DEPARTMENT OF LICENSING AND REGULATION AND DEPARTMENT OF STATE HEALTH SERVICES; APPLICATION AND RENEWAL FEES. (a) The Texas Department of Licensing and Regulation:

(1)  shall monitor, coordinate, and provide training to persons who provide in-person and online educational programs under Section 521.374(a)(1) [~~521.374~~];

(2)  shall administer the approval of those in-person and online educational programs; and

(3)  may charge a nonrefundable application fee to the provider of an in-person or online educational program under Section 521.374(a)(1) for:

(A)  initial certification of approval; and

(B)  renewal of the certification.

(b)  The Department of State Health Services:

(1)  shall monitor, coordinate, and provide training to[~~:~~

[~~(A)  persons who provide educational programs under Section 521.374(a)(1); and~~

[~~(B)~~]  residential treatment facilities described by Section 521.374(a)(2) providing equivalent education; and

(2)  shall administer the approval of the [~~educational programs and the~~] equivalent education provided in a residential treatment facility[~~; and~~

[~~(3)  may charge a nonrefundable application fee to the provider of an educational program under Section 521.374(a)(1) for:~~

[~~(A)  initial certification of approval; and~~

[~~(B)  renewal of the certification~~].

SECTION 19.  The following provisions are repealed:

(1)  Section 106.115(b), Alcoholic Beverage Code;

(2)  Article 42A.405, Code of Criminal Procedure; and

(3)  Section 54.047(e), Family Code.

SECTION 20.  (a) For purposes of this section, any reference in law to a license to provide or instruct a court-ordered program includes a certification under the law as it existed immediately before the effective date of this Act.

(b)  On the effective date of this Act, a program provider license or an instructor license issued before the effective date of this Act shall continue to be valid until the license expires.

(c)  An application for an initial program provider or instructor license or for renewal of a program provider or instructor license submitted to the Texas Department of Licensing and Regulation on or after the effective date of this Act is governed by Chapter 171, Government Code, as added by this Act. An application submitted before that date is governed by the laws and rules in effect when the application was submitted, and the former laws and rules are continued in effect for that purpose.

(d)  A person who holds an instructor license prior to the effective date of this Act is eligible to renew that license on or after the effective date of this Act, if:

(1)  the license is current or is within the late renewal period; and

(2)  the person's instructor eligibility requirements remain in effect at the time of renewal.

(e)  On or after the effective date of this Act, if a person's instructor license expires beyond the late renewal period or if the license is revoked, the person must apply for a new license and meet the instructor eligibility and other license requirements in effect at the time of the new application.

SECTION 21.  (a) As soon as practicable after the effective date of this Act, the Texas Commission of Licensing and Regulation, the Texas Department of Licensing and Regulation, and the executive director of the Texas Department of Licensing and Regulation, as appropriate, shall adopt rules and forms necessary to implement Chapter 171, Government Code, as added by this Act.

(b)  All rules, fees, policies, procedures, decisions, and forms that relate to a program or activity regulated under this Act and that are in effect on the effective date of this Act remain in effect until changed by the Texas Commission of Licensing and Regulation, the Texas Department of Licensing and Regulation, or the executive director of the Texas Department of Licensing and Regulation, as appropriate.

SECTION 22.  This Act takes effect September 1, 2021.