

By: Tinderholt, King of Parker, White,
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H.B. No. 2733

A BILL TO BE ENTITLED

AN ACT

relating to defendants restricted to the operation of a vehicle equipped with an ignition interlock device or required to submit to alcohol monitoring and establishing a central database of those defendants.

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

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.33 to read as follows:

Art. 2.33. REPORT REQUIRED FOR VIOLATION OF REQUIREMENT RELATING TO IGNITION INTERLOCK DEVICE OR OTHER ALCOHOL MONITORING DEVICE. A peace officer shall make a report to the Department of Public Safety if the peace officer has probable cause to believe that a person has violated:

(1) a condition of bond imposed under Article 17.441, a condition of community supervision imposed under Article 42A.408, a condition of holding an occupational driver's license under Section 521.246, Transportation Code, or a court order issued under Section 49.09(h), Penal Code, restricting the person to the operation of a motor vehicle equipped with an ignition interlock device; or

(2) a condition of bond imposed under Article 17.44(a)(3) or a condition of community supervision imposed under Chapter 42A requiring the person to submit to alcohol monitoring through the use of an alcohol monitoring device other than an

1 ignition interlock device.

2 SECTION 2. The heading to Article 17.44, Code of Criminal
3 Procedure, is amended to read as follows:

4 Art. 17.44. HOME CONFINEMENT, ELECTRONIC MONITORING, ~~[AND]~~
5 DRUG TESTING, OR ALCOHOL MONITORING AS CONDITION.

6 SECTION 3. Article 17.44, Code of Criminal Procedure, is
7 amended by amending Subsections (a), (c), and (e) and adding
8 Subsections (f) and (g) to read as follows:

9 (a) A magistrate may require as a condition of release on
10 bond that the defendant submit to:

11 (1) home confinement and electronic monitoring under
12 the supervision of an agency designated by the magistrate; ~~[or]~~

13 (2) testing on a weekly basis for the presence of a
14 controlled substance in the defendant's body; or

15 (3) alcohol monitoring through the use of an alcohol
16 monitoring device other than an ignition interlock device, for a
17 defendant charged with an offense under Section 49.04, 49.045,
18 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code.

19 (c) The magistrate may revoke the bond and order the
20 defendant arrested if the defendant:

21 (1) violates a condition of home confinement and
22 electronic monitoring;

23 (2) refuses to submit to a test for controlled
24 substances or submits to a test for controlled substances and the
25 test indicates the presence of a controlled substance in the
26 defendant's body; ~~[or]~~

27 (3) violates a condition of alcohol monitoring or

1 refuses to submit to alcohol monitoring; or

2 (4) fails to pay the reimbursement fee for electronic
3 monitoring, ~~or~~ testing for controlled substances, or alcohol
4 monitoring, if payment is ordered under Subsection (e) as a
5 condition of bond and the magistrate determines that the defendant
6 is not indigent and is financially able to make the payments as
7 ordered.

8 (e) The cost of electronic monitoring, ~~or~~ testing for
9 controlled substances, or alcohol monitoring under this article may
10 be assessed as a reimbursement fee or ordered paid directly by the
11 defendant as a condition of bond.

12 (f) A magistrate that requires the defendant to submit to
13 alcohol monitoring under Subsection (a)(3) as a condition of bond
14 or modifies the conditions of bond imposing the requirement or the
15 county clerk of the county in which the magistrate is located shall
16 submit to the Department of Public Safety for inclusion in the
17 central database maintained by the department under Section
18 411.02091, Government Code:

19 (1) a copy of the order for conditions of bond imposing
20 the alcohol monitoring requirement or the order for modification of
21 the conditions of bond, as applicable; and

22 (2) the defendant's name, date of birth, and driver's
23 license number.

24 (g) If a defendant required to submit to alcohol monitoring
25 as a condition of bond is convicted, placed on deferred
26 adjudication community supervision, or acquitted, or if the charges
27 with respect to the defendant are dismissed, the applicable court

1 or the county clerk of the county in which the applicable court is
2 located shall submit to the Department of Public Safety for
3 inclusion in the central database maintained by the department
4 under Section 411.02091, Government Code:

5 (1) a copy of the applicable order; and

6 (2) the defendant's name, date of birth, and driver's
7 license number.

8 SECTION 4. Article 17.441, Code of Criminal Procedure, is
9 amended by adding Subsections (e) and (f) to read as follows:

10 (e) A magistrate that restricts a defendant to the operation
11 of a motor vehicle equipped with an ignition interlock device under
12 Subsection (a) or modifies the conditions of bond imposing the
13 restriction or the county clerk of the county in which the
14 magistrate is located shall submit to the Department of Public
15 Safety for inclusion in the central database maintained by the
16 department under Section 411.02091, Government Code:

17 (1) a copy of the order for conditions of bond imposing
18 the restriction or the order for modification of the conditions of
19 bond, as applicable; and

20 (2) the defendant's name, date of birth, and driver's
21 license number.

22 (f) If a defendant restricted to the operation of a motor
23 vehicle equipped with an ignition interlock device as a condition
24 of bond is convicted, placed on deferred adjudication community
25 supervision, or acquitted, or if the charges with respect to the
26 defendant are dismissed, the applicable court or the county clerk
27 of the county in which the applicable court is located shall submit

1 to the Department of Public Safety for inclusion in the central
2 database maintained by the department under Section 411.02091,
3 Government Code:

- 4 (1) a copy of the applicable order; and
5 (2) the defendant's name, date of birth, and driver's
6 license number.

7 SECTION 5. Chapter 21, Code of Criminal Procedure, is
8 amended by adding Article 21.32 to read as follows:

9 Art. 21.32. SUBMISSION TO CENTRAL DATABASE CONCERNING
10 IGNITION INTERLOCK DEVICE OR ALCOHOL MONITORING CONDITION. A court
11 on receiving an indictment or information alleging an offense for
12 which the person was, as a condition of bond, restricted to the
13 operation of a motor vehicle equipped with an ignition interlock
14 device under Article 17.441 or required to submit to alcohol
15 monitoring under Article 17.44(a)(3) or the county clerk of the
16 county in which the court is located shall submit to the Department
17 of Public Safety for inclusion in the central database maintained
18 by the department under Section 411.02091, Government Code, a
19 statement indicating:

- 20 (1) the defendant's name;
21 (2) the defendant's date of birth;
22 (3) the defendant's driver's license number; and
23 (4) whether the defendant remains subject to the
24 restriction or requirement, as applicable.

25 SECTION 6. Chapter 42, Code of Criminal Procedure, is
26 amended by adding Article 42.0184 to read as follows:

27 Art. 42.0184. NOTICE OF CERTAIN INTOXICATION OFFENSES

1 PROVIDED BY CLERK OF COURT. (a) If a defendant is convicted of an
2 offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07,
3 or 49.08, Penal Code, the court in which the conviction is entered
4 shall determine whether as a condition of bond the defendant was
5 previously:

6 (1) restricted to the operation of a motor vehicle
7 equipped with an ignition interlock device; or

8 (2) required to submit to alcohol monitoring through
9 the use of an alcohol monitoring device other than an ignition
10 interlock device.

11 (b) Not later than the fifth day after the date a defendant
12 is convicted of an offense under Section 49.04, 49.045, 49.05,
13 49.06, 49.065, 49.07, or 49.08, Penal Code, the clerk of the court
14 in which the conviction is entered or the county clerk of the county
15 in which the court is located shall submit to the Department of
16 Public Safety for inclusion in the central database maintained by
17 the department under Section 411.02091, Government Code:

18 (1) a copy of the order of conviction;

19 (2) a statement indicating the defendant's name, date
20 of birth, and driver's license number; and

21 (3) whether, as a condition of community supervision
22 or as otherwise ordered by the court as a result of the conviction,
23 the defendant:

24 (A) is restricted to the operation of a motor
25 vehicle equipped with an ignition interlock device; or

26 (B) is required to submit to alcohol monitoring
27 through the use of an alcohol monitoring device other than an

1 ignition interlock device.

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

4 (i) A court that restricts a defendant to the operation of a
5 motor vehicle equipped with an ignition interlock device under this
6 article as a condition of community supervision or modifies the
7 order imposing the restriction as a condition of community
8 supervision or the county clerk of the county in which the court is
9 located shall submit to the Department of Public Safety for
10 inclusion in the central database maintained by the department
11 under Section 411.02091, Government Code:

12 (1) a copy of the order imposing the restriction as a
13 condition of community supervision or the order for modification of
14 the conditions of community supervision, as applicable;

15 (2) the defendant's name, date of birth, and driver's
16 license number; and

17 (3) if applicable, the date the restriction expires.

18 SECTION 8. Subchapter I, Chapter 42A, Code of Criminal
19 Procedure, is amended by adding Article 42A.4085 to read as
20 follows:

21 Art. 42A.4085. ALCOHOL MONITORING AS CONDITION OF COMMUNITY
22 SUPERVISION; SUBMISSION TO CENTRAL DATABASE. (a) A judge
23 requiring the defendant as a condition of community supervision to
24 submit to alcohol monitoring through the use of an alcohol
25 monitoring device other than an ignition interlock device or
26 modifying an order requiring alcohol monitoring or the county clerk
27 of the county in which the court is located shall submit to the

1 Department of Public Safety for inclusion in the central database
2 maintained by the department under Section 411.02091, Government
3 Code:

4 (1) a copy of the order imposing the alcohol
5 monitoring as a condition of community supervision or the order
6 modifying the conditions of community supervision, as applicable;

7 (2) the defendant's name, date of birth, and driver's
8 license number; and

9 (3) if applicable, the date the requirement for
10 alcohol monitoring expires.

11 (b) This article does not apply to an order restricting a
12 defendant to operation of a motor vehicle equipped with an ignition
13 interlock device under Article 42A.408.

14 SECTION 9. Subchapter A, Chapter 411, Government Code, is
15 amended by adding Section 411.02091 to read as follows:

16 Sec. 411.02091. CENTRAL DATABASE OF DEFENDANTS RESTRICTED
17 TO USE OF MOTOR VEHICLE EQUIPPED WITH IGNITION INTERLOCK DEVICE OR
18 REQUIRED TO SUBMIT TO OTHER ALCOHOL MONITORING. (a) The department
19 shall maintain a computerized central database containing
20 information regarding defendants who are:

21 (1) restricted to the use of a motor vehicle equipped
22 with an ignition interlock device under Article 17.441 or 42A.408,
23 Code of Criminal Procedure, Section 49.09(h), Penal Code, or
24 Section 521.246, Transportation Code; or

25 (2) required under Article 17.44(a)(3), Code of
26 Criminal Procedure, or Chapter 42A of that code to submit to alcohol
27 monitoring through the use of an alcohol monitoring device other

1 than an ignition interlock device.

2 (b) The database must include:

3 (1) the name of each defendant restricted to the
4 operation of a motor vehicle equipped with an ignition interlock
5 device or required to submit to alcohol monitoring through the use
6 of an alcohol monitoring device other than an ignition interlock
7 device;

8 (2) the defendant's date of birth;

9 (3) the defendant's driver's license number; and

10 (4) if applicable, the date each restriction or
11 requirement expires.

12 (c) The department shall remove a defendant's name from the
13 central database under this section on the expiration of the
14 ignition interlock restriction or alcohol monitoring requirement
15 for that defendant or on other notification that the restriction or
16 requirement has been terminated.

17 (d) The central database under this section must:

18 (1) provide the information in a format that allows a
19 law enforcement agency to make the information available to a peace
20 officer through a mobile data terminal; and

21 (2) promptly reflect any updated information,
22 including modifications to a court's order, as necessary to ensure
23 a defendant whose ignition interlock restriction or alcohol
24 monitoring requirement has expired or been terminated is not
25 indicated through the mobile data terminal as a person who is
26 restricted to the operation of a motor vehicle equipped with an
27 ignition interlock device or required to submit to alcohol

1 monitoring through the use of an alcohol monitoring device other
2 than an ignition interlock device.

3 (e) In lieu of creating a separate central database under
4 this section, the department may comply with this section by
5 incorporating the information regarding the defendant into an
6 existing database or electronic record system maintained by the
7 department, including by adding the information to the defendant's
8 driver's license record, provided that the existing database or
9 system meets the requirements of Subsection (d).

10 (f) On receipt of a report under Article 2.33, Code of
11 Criminal Procedure, the department shall consult the database to
12 determine whether the person is subject to an ignition interlock
13 restriction or an alcohol monitoring requirement. If the
14 department determines that the person is subject to a restriction
15 or requirement, the department shall notify the court that imposed
16 the restriction or requirement of the suspected violation.

17 SECTION 10. Section 509.004(a), Government Code, is amended
18 to read as follows:

19 (a) The division shall require each department to:

20 (1) keep financial and statistical records determined
21 necessary by the division;

22 (2) submit a strategic plan and all supporting
23 information requested by the division;

24 (3) present data requested by the division as
25 necessary to determine the amount of state aid for which the
26 department is eligible; and

27 (4) submit periodic financial audits and statistical

1 reports to the division[, ~~and~~
2 ~~[(5) submit to the Department of Public Safety the~~
3 ~~full name, address, date of birth, social security number, and~~
4 ~~driver's license number of each person restricted to the operation~~
5 ~~of a motor vehicle equipped with a device that uses a deep-lung~~
6 ~~breath analysis mechanism to make impractical the operation of the~~
7 ~~motor vehicle if ethyl alcohol is detected in the breath of the~~
8 ~~restricted operator].~~

9 SECTION 11. Section 49.09(h), Penal Code, is amended to
10 read as follows:

11 (h) This subsection applies only to a person convicted of a
12 second or subsequent offense relating to the operating of a motor
13 vehicle while intoxicated committed within five years of the date
14 on which the most recent preceding offense was committed. The court
15 shall enter an order that requires the defendant to have an ignition
16 interlock [~~a~~] device installed, on each motor vehicle owned or
17 operated by the defendant, that uses a deep-lung breath analysis
18 mechanism to make impractical the operation of the motor vehicle if
19 ethyl alcohol is detected in the breath of the operator, and that
20 requires that before the first anniversary of the ending date of the
21 period of license suspension under Section 521.344, Transportation
22 Code, the defendant not operate any motor vehicle that is not
23 equipped with an ignition interlock [~~that~~] device. The court shall
24 require the defendant to obtain the ignition interlock device at
25 the defendant's own cost on or before that ending date, require the
26 defendant to provide evidence to the court on or before that ending
27 date that the ignition interlock device has been installed on each

1 appropriate vehicle, and order the ignition interlock device to
2 remain installed on each vehicle until the first anniversary of
3 that ending date. If the court determines the offender is unable to
4 pay for the ignition interlock device, the court may impose a
5 reasonable payment schedule not to extend beyond the first
6 anniversary of the date of installation. The Department of Public
7 Safety shall approve ignition interlock devices for use under this
8 subsection. Section 521.247, Transportation Code, applies to the
9 approval of an ignition interlock [a] device under this subsection
10 and the consequences of that approval. Failure to comply with an
11 order entered under this subsection is punishable by contempt. For
12 the purpose of enforcing this subsection, the court that enters an
13 order under this subsection retains jurisdiction over the defendant
14 until the date on which the ignition interlock device is no longer
15 required to remain installed. A court that restricts a defendant to
16 the operation of a motor vehicle equipped with an ignition
17 interlock device under this subsection or the county clerk of the
18 county in which the court is located shall submit to the Department
19 of Public Safety for inclusion in the central database maintained
20 by the department under Section 411.02091, Government Code, a copy
21 of the order imposing the restriction, the defendant's name, the
22 defendant's date of birth, the defendant's driver's license number,
23 and, if applicable, the date the restriction expires. To the extent
24 of a conflict between this subsection and Subchapter I, Chapter
25 42A, Code of Criminal Procedure, this subsection controls.

26 SECTION 12. Section 521.246, Transportation Code, is
27 amended by adding Subsection (g) to read as follows:

1 (g) A judge that restricts a person to the operation of a
2 motor vehicle equipped with an ignition interlock device under
3 Subsection (a) or modifies the order imposing the restriction or
4 the county clerk of the county in which the court is located shall
5 submit to the Department of Public Safety for inclusion in the
6 central database maintained by the department under Section
7 411.02091, Government Code:

8 (1) a copy of the order imposing the restriction or the
9 order for modification, as applicable;

10 (2) the defendant's name, date of birth, and driver's
11 license number; and

12 (3) if applicable, the date the restriction expires.

13 SECTION 13. The Department of Public Safety of the State of
14 Texas shall design and implement the central database required by
15 Section 411.02091, Government Code, as added by this Act, not later
16 than January 1, 2022.

17 SECTION 14. A peace officer is not required to make a report
18 under Article 2.33, Code of Criminal Procedure, as added by this
19 Act, before January 1, 2022.

20 SECTION 15. Articles 17.44, 17.441, and 42A.408, Code of
21 Criminal Procedure, Section 49.09, Penal Code, and Section 521.246,
22 Transportation Code, as amended by this Act, apply only to a
23 magistrate, court, or judge that orders that a defendant be
24 restricted to the operation of a motor vehicle equipped with an
25 ignition interlock device or requires a defendant to submit to
26 alcohol monitoring through the use of an alcohol monitoring device
27 other than an ignition interlock device on or after January 1, 2022.

1 A restriction or requirement ordered before January 1, 2022, is
2 governed by the law in effect immediately before the effective date
3 of this Act, and the former law is continued in effect for that
4 purpose.

5 SECTION 16. Article 21.32, Code of Criminal Procedure, as
6 added by this Act, applies only to an indictment or information
7 provided under that article on or after January 1, 2022. An
8 indictment or information provided under that article before
9 January 1, 2022, is governed by the law in effect immediately before
10 the effective date of this Act, and the former law is continued in
11 effect for that purpose.

12 SECTION 17. Articles 42.0184 and 42A.4085, Code of Criminal
13 Procedure, as added by this Act, apply only to a magistrate, court,
14 or judge that orders that a defendant be restricted to the operation
15 of a motor vehicle equipped with an ignition interlock device or
16 requires a defendant submit to alcohol monitoring through the use
17 of an alcohol monitoring device other than an ignition interlock
18 device on or after January 1, 2022. A restriction or requirement
19 ordered before January 1, 2022, is governed by the law in effect
20 immediately before the effective date of this Act, and the former
21 law is continued in effect for that purpose.

22 SECTION 18. Section 509.004(a), Government Code, as amended
23 by this Act, applies only to a restriction that is imposed on or
24 after January 1, 2022. A restriction imposed before January 1,
25 2022, is governed by the law in effect immediately before the
26 effective date of this Act, and the former law is continued in
27 effect for that purpose.

1 SECTION 19. This Act takes effect September 1, 2021.