

By: Hinojosa

S.B. No. 1070

A BILL TO BE ENTITLED

AN ACT

relating to allowing certain defendants to successfully complete education at a substance abuse treatment facility in lieu of attending an education program; changing required conditions of community supervision for certain defendants.

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

SECTION 1. Section 13, Article 42.12, Code of Criminal Procedure, is amended by amending Subsections (h) and (j) and adding Subsection (o) to read as follows:

(h) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the judge shall require, as a condition of the community supervision, that the defendant attend and successfully complete before the 181st day after the day community supervision is granted an educational program jointly approved by the Department of State Health Services [~~Texas Commission on Alcohol and Drug Abuse~~], the Department of Public Safety, the Traffic Safety Section of the Texas Department of Transportation, and the community justice assistance division of the Texas Department of Criminal Justice designed to rehabilitate persons who have driven while intoxicated. The executive commissioner of the Health and Human Services [~~Texas~~] Commission [~~on Alcohol and Drug Abuse~~] shall publish the jointly approved rules and the Department of State Health Services shall monitor, coordinate, and provide training to

1 persons providing the educational programs. The Department of
2 State Health Services [~~Texas Commission on Alcohol and Drug Abuse~~]
3 is responsible for the administration of the certification of
4 approved educational programs and may charge a nonrefundable
5 application fee for the initial certification of approval and for
6 renewal of a certificate. The judge may waive the educational
7 program requirement or may grant an extension of time to
8 successfully complete the program that expires not later than one
9 year after the beginning date of the person's community
10 supervision, however, if the defendant by a motion in writing shows
11 good cause. In determining good cause, the judge may consider but
12 is not limited to: the defendant's school and work schedule, the
13 defendant's health, the distance that the defendant must travel to
14 attend an educational program, and the fact that the defendant
15 resides out of state, has no valid driver's license, or does not
16 have access to transportation. The judge shall waive the
17 educational program requirement if the defendant successfully
18 completes equivalent education at a residential treatment facility
19 under Subsection (o). The judge shall set out in the judgment the
20 finding of good cause for waiver or the finding that the defendant
21 has successfully completed equivalent education as provided by
22 Subsection (o), as applicable [~~in the judgment~~]. If a defendant is
23 required, as a condition of community supervision, to attend an
24 educational program or if the court waives the educational program
25 requirement or the defendant successfully completes equivalent
26 education under Subsection (o), the court clerk shall immediately
27 report that fact to the Department of Public Safety, on a form

1 prescribed by the department, for inclusion in the person's driving
 2 record. If the court grants an extension of time in which the
 3 person may complete the program, the court clerk shall immediately
 4 report that fact to the Department of Public Safety on a form
 5 prescribed by the department. The report must include the
 6 beginning date of the person's community supervision. Upon the
 7 person's successful completion of the educational program, the
 8 person's instructor shall give notice to the Department of Public
 9 Safety for inclusion in the person's driving record and to the
 10 community supervision and corrections department. The community
 11 supervision and corrections department shall then forward the
 12 notice to the court clerk for filing. Upon release from a
 13 residential treatment facility at which the person successfully
 14 completed equivalent education under Subsection (o), at the request
 15 of the court clerk, the director of the residential treatment
 16 facility shall give notice to the Department of Public Safety for
 17 inclusion in the person's driving record. If the Department of
 18 Public Safety does not receive notice that a defendant required to
 19 complete an educational program has successfully completed the
 20 program within the period required by this section, as shown on
 21 department records, the department shall revoke the defendant's
 22 driver's license, permit, or privilege or prohibit the person from
 23 obtaining a license or permit, as provided by Sections 521.344(e)
 24 and (f), Transportation Code. The Department of Public Safety may
 25 not reinstate a license suspended under this subsection unless the
 26 person whose license was suspended makes application to the
 27 department for reinstatement of the person's license and pays to

the department a reinstatement fee of \$100. The Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund. This subsection does not apply to a defendant if a jury recommends community supervision for the defendant and also recommends that the defendant's driver's license not be suspended.

(j) The judge shall require a defendant who is punished under Section 49.09, Penal Code, as a condition of community supervision, to attend and successfully complete an educational program for repeat offenders approved by the Department of State Health Services [~~Texas Commission on Alcohol and Drug Abuse~~]. The executive commissioner of the Health and Human Services [~~Texas~~ ~~Commission~~ [~~on Alcohol and Drug Abuse~~]] shall adopt rules and the Department of State Health Services shall monitor, coordinate, and provide training to persons providing the educational programs. The Department of State Health Services [~~Texas Commission on Alcohol and Drug Abuse~~] is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for initial certification of approval or for renewal of the certification. The judge may waive the educational program requirement [~~only~~] if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and whether the defendant resides out of state or does not have access to transportation. The judge shall waive the educational program requirement if the defendant

1 successfully completes equivalent education at a residential
2 treatment facility under Subsection (o). The judge shall set out in
3 the judgment the finding of good cause for waiver or the finding
4 that the defendant has successfully completed equivalent education
5 as provided by Subsection (o), as applicable ~~[in the judgment]~~. If
6 a defendant is required, as a condition of community supervision,
7 to attend an educational program, the court clerk shall immediately
8 report that fact to the Department of Public Safety, on a form
9 prescribed by the department, for inclusion in the defendant's
10 driving record. The report must include the beginning date of the
11 defendant's community supervision. On the defendant's successful
12 completion of the educational program for repeat offenders, the
13 defendant's instructor shall give notice to the Department of
14 Public Safety for inclusion in the defendant's driving record and
15 to the community supervision and corrections department. The
16 community supervision and corrections department shall then
17 forward the notice to the court clerk for filing. If the Department
18 of Public Safety does not receive notice that a defendant required
19 to complete an educational program has successfully completed the
20 program for repeat offenders within the period required by the
21 judge, as shown on department records, the department shall revoke
22 the defendant's driver's license, permit, or privilege or prohibit
23 the defendant from obtaining a license or permit, as provided by
24 Sections [521.344](#)(e) and (f), Transportation Code.

25 (o) A judge shall waive the educational requirement under
26 Subsection (h) or (j) for a defendant who is required to receive
27 treatment as a resident of a substance abuse treatment facility as a

condition of community supervision if the defendant successfully completes equivalent education while the defendant is confined to the residential treatment facility. The Department of State Health Services shall approve equivalent education provided at substance abuse treatment facilities and the executive commissioner of the Health and Human Services Commission shall adopt rules to implement this subsection. For purposes of this subsection, a substance abuse treatment facility includes:

(1) 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;

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

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

SECTION 2. Sections 521.374, 521.375, and 521.376, Transportation Code, are amended to read as follows:

Sec. 521.374. EDUCATIONAL PROGRAM OR EQUIVALENT EDUCATION.

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

(1) attend an educational program, approved by the Department of State Health Services [Texas Commission on Alcohol and Drug Abuse] under rules adopted by the executive commissioner of the Health and Human Services Commission [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

1 equivalent to the educational program described by Subdivision (1),
2 while the person is a resident of a facility for the treatment of
3 drug abuse or chemical dependency, including:

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

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

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

12 (b) The period of suspension or prohibition under Section
13 521.372(c) continues for an indefinite period until the individual
14 successfully completes the educational program or is released from
15 the residential treatment facility at which the individual
16 successfully completed equivalent education, as applicable.

17 Sec. 521.375. JOINT ADOPTION OF RULES. (a) The executive
18 commissioner of the Health and Human Services [Texas] Commission
19 [on Alcohol and Drug Abuse] and the department shall jointly adopt
20 rules for the qualification and approval of:

21 (1) providers of educational programs under Section
22 521.374(a)(1); and

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

25 (b) The Department of State Health Services [Texas
26 Commission on Alcohol and Drug Abuse] shall publish the jointly
27 adopted rules.

1 Sec. 521.376. DUTIES OF DEPARTMENT OF STATE HEALTH SERVICES
2 ~~[TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE]~~; APPLICATION AND
3 RENEWAL FEES. The Department of State Health Services ~~[Texas~~
4 ~~Commission on Alcohol and Drug Abuse]~~:

5 (1) shall monitor, coordinate, and provide training
6 to:

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

9 (B) residential treatment facilities described
10 by Section 521.374(a)(2) providing equivalent education;

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

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

16 (A) initial certification of approval; and

17 (B) renewal of the certification.

18 SECTION 3. Section 521.377(a), Transportation Code, is
19 amended to read as follows:

20 (a) The department, on payment of the applicable fee, shall
21 reinstate a person's license or, if the person otherwise qualifies
22 for a license, issue the license, if:

23 (1) the department receives notification from the
24 clerk of the court in which the person was convicted that the person
25 has successfully completed an educational program under Section
26 521.374(a)(1) or equivalent education in a residential treatment
27 facility under Section 521.374(a)(2) ~~[this subchapter]~~; and

1 (2) the person's driver's license has been suspended
2 or license application denied for at least the period provided by
3 Section 521.372(c).

4 SECTION 4. (a) The change in law made by this Act to
5 Section 13, Article 42.12, Code of Criminal Procedure, applies to a
6 defendant placed on community supervision on or after the effective
7 date of this Act, regardless of whether the offense for which the
8 defendant was placed on community supervision occurred before, on,
9 or after that date.

10 (b) The change in law made by this Act to Subchapter P,
11 Chapter 521, Transportation Code, applies to a person whose
12 driver's license is suspended on final conviction of an offense on
13 or after the effective date of this Act, regardless of whether the
14 offense occurred before, on, or after that date.

15 SECTION 5. This Act takes effect September 1, 2015.