

## **BILL ANALYSIS**

C.S.H.B. 3582  
By: Murr  
Corrections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been suggested that granting deferred adjudication community supervision to certain first-time DWI offenders would allow these offenders to receive the treatment for alcoholism they need and reduce the risk of reoffending. C.S.H.B. 3582 seeks to provide this by authorizing judges to grant deferred adjudication community supervision for defendants who commit certain intoxication offenses and revises certain aspects of the law relating to DWI.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3582 amends the Code of Criminal Procedure to condition the prohibition against a judge from granting deferred adjudication community supervision to a defendant who is charged with a driving while intoxicated or boating while intoxicated offense on the defendant having at the time of the offense a commercial driver's license or a commercial learner's permit or an alcohol concentration of 0.16 or more. The bill prohibits a judge from granting deferred adjudication community supervision to a defendant who is charged with an offense for which the punishment may be increased based on the defendant's previous conviction for certain intoxication offenses or intoxication assault that resulted in serious bodily injury or death.

C.S.H.B. 3582 requires a judge granting deferred adjudication community supervision to a defendant for a driving while intoxicated or boating while intoxicated offense to require that the defendant, as a condition of community supervision, have an ignition interlock device installed on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant and that the defendant not operate any motor vehicle that is not equipped with that device unless the judge finds that restricting the defendant to the operation of a motor vehicle equipped with an ignition interlock device would not be in the best interest of society and enters that finding in the record. The bill makes this provision applicable regardless of whether the defendant would be required to have an ignition interlock device installed on conviction of the offense for which deferred adjudication community supervision is granted. The bill provides for a reduction of costs if the judge determines that the defendant is unable to pay for the ignition interlock device but makes any such reduction of costs inapplicable to any fees that may be assessed against a defendant for whom the ignition interlock device detects ethyl alcohol on the breath of the person attempting to operate the vehicle.

C.S.H.B. 3582 amends the Government Code to authorize a person who was placed on deferred adjudication community supervision for a driving while intoxicated or boating while intoxicated offense that is punishable as a misdemeanor to petition the court that placed the person on deferred adjudication community supervision for an order of nondisclosure of criminal history record information if the person receives a discharge and dismissal, satisfies required conditions for receiving such an order, and has never been previously convicted of or placed on deferred adjudication community supervision for another offense other than a fine-only traffic offense. The bill limits the date on or after which such a petition may be filed to:

- 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
- the fifth anniversary of such date of completion and discharge and dismissal if the court that placed the person on deferred adjudication community supervision did not order the person to comply with such a condition of community supervision.

C.S.H.B. 3582 requires the petition to include evidence that the person is entitled to file the petition and requires the court, after notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of an order of nondisclosure of criminal history record information is in the best interest of justice, to issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the applicable offense. The bill prohibits the court from issuing the order if the attorney representing the state presents evidence sufficient to the court demonstrating that the commission of the offense resulted in a motor vehicle accident involving another person, including a passenger in a motor vehicle operated by the person seeking the order of nondisclosure.

C.S.H.B. 3582 amends the Penal Code to enhance from a state jail felony to a third degree felony the penalty for the offense of driving while intoxicated with a child passenger for an actor who has a previous conviction of certain intoxication offenses. The bill establishes that, for purposes of statutory provisions relating to enhanced offenses and penalties for certain intoxication and alcoholic beverage offenses, a person is considered to have been convicted of a driving while intoxicated or boating while intoxicated offense if the person was placed on deferred adjudication community supervision for the offense.

#### **EFFECTIVE DATE**

September 1, 2019.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 3582 differs from the original only by amending the caption to specify that the bill relates to enhancing a criminal penalty.