

SUBJECT: Allowing equivalent education courses for intoxication, drug offenses

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Herrero, Moody, Leach, Shaheen, Simpson

0 nays

2 absent — Canales, Hunter

SENATE VOTE: On final passage, April 27 — 30-0

WITNESSES: For — (*Registered, but did not testify*: Sarah Pahl, Texas Criminal Justice Coalition)

Against — None

BACKGROUND: Under Code of Criminal Procedure 42.12, sec 13(h), judges must require that defendants placed on probation for certain intoxication offenses attend and successfully complete a state-approved educational program designed to rehabilitate persons who have driven while intoxicated. This requirement applies to persons put on probation for driving while intoxicated, driving while intoxicated with a child passenger, flying while intoxicated, boating while intoxicated, assembling or operating an amusement ride while intoxicated, intoxication assault, and intoxication manslaughter. Under 42.12, sec. 13(j), there is a similar requirement for judges putting offenders on probation under provisions that allow enhanced penalties for some intoxication.

Under Transportation Code sec. 521.372, a person's driver's license is automatically suspended upon final conviction for an offense under the Texas Controlled Substances Act (Health and Safety Code, ch. 481), a drug offense, or a felony under ch. 481 that is not a drug offense. Under sec. 521.374, individuals who have had their licenses suspended may attend a state-approved education program designed to educate persons on the dangers of drug abuse. The period of a license suspension, generally

180 days, can continue until the individual successfully completes the education program.

DIGEST:

SB 1070 would allow certain probationers convicted of intoxication offenses to receive a waiver of a requirement to complete an education course if they completed equivalent education while confined to a residential treatment facility. The bill would allow a similar waiver for some individuals who had their driver's licenses suspended due to drug-related charges and attended an education course while in treatment.

Judges would be required to waive the requirement that persons put on probation for driving while intoxicated and certain other intoxication offenses attend and successfully complete a state-approved education program if the probationer successfully completed equivalent education while confined in a residential treatment facility. The Department of State Health Services would be required to approve the equivalent education provided at substance abuse treatment facilities. A judge would be required to make a finding that the defendant had completed the education.

SB 1070 would establish a similar provision for those who had their driver's licenses suspended under Transportation Code, sec. 521.372 for drug-related convictions. The bill would allow education programs completed by a person while a resident of a drug abuse or chemical dependency facility to meet the current requirement of completing a state-approved education course. The Department of State Health Services would approve the equivalent education provided at residential facilities.

Under both circumstances, the bill would define a facility for the treatment of substance abuse, drug abuse, or chemical dependency to include certain substance abuse treatment or punishment facilities operated by the Texas Department of Criminal Justice, community corrections facilities, and chemical dependency treatment facilities licensed under the Health and Safety Code.

The bill would update references in the code to the state entities

responsible for implementing these requirements to reflect the abolition of the Texas Commission on Alcohol and Drug Abuse.

The bill would take effect September 1, 2015, and would apply to persons placed on probation on or after that date.

**SUPPORTERS
SAY:**

SB 1070 would keep certain offenders from having to attend duplicative courses by expanding the types of education programs that could fulfill requirements to attend alcohol or drug education programs. Currently, certain offenders with alcohol- or drug-related charges are required to attend state-approved education programs. However, some of these individuals who are in residential treatment facilities complete similar programs that are more extensive than programs offered outside these facilities. Programs in residential treatment facilities can range from about 80 hours to 300 hours, while those taken outside of the facilities may range from about 25 hours to 50 hours. In these cases, requiring offenders to attend another course after leaving a residential facility would be redundant and unnecessary. Requiring a duplicative course places a financial burden on some defendants and is counterproductive for those who must take time off from work or school to attend the program.

By allowing equivalent, state-approved courses taken in residential treatment centers to fulfill the current requirements, SB 1070 would meet the intent of current law that offenders receive education and treatment. Enough people need such services to support offering education programs outside of and within residential treatment facilities. In some cases, the failure of an offender to attend classes outside of a facility can contribute to his or her placement in a treatment facility, so SB 1070 would fill a gap for these offenders, not draw them away from outside courses.

The bill would require judges to make a finding that the defendant had completed the education requirement, which would streamline the process of the waiver and not require a motion from the probationers.

**OPPONENTS
SAY:**

No apparent opposition.