

## **BILL ANALYSIS**

Senate Research Center

S.B. 664  
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Criminal Justice  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Until 1983, deferred adjudication community supervision was available for defendants charged with driving while intoxicated (DWI). Currently, deferred adjudication is not available for any of the Chapter 49 intoxication offenses. This leads to most first-time offenders either pleading guilty to a lesser crime or spending time in jail. For those who plead guilty to a lesser crime, there is no DWI conviction on the record for penalty enhancement purposes if the defendant is tried and convicted of a second DWI offense. Allowing first-time DWI offenders the opportunity for deferred adjudication gives prosecutors and judges greater discretion, and allows them to leave the DWI charge on the record without sending someone to jail.

S.B. 664 allows a judge to grant deferred adjudication community supervision for the offenses of driving while intoxicated and boating while intoxicated. It will only be available to first time offenders, and defendants receiving deferred adjudication will be required to have an ignition interlock device installed. Under S.B. 664, if a deferred adjudication is granted it can still be considered as a conviction for the sole purpose of penalty enhancement if another offense occurs.

As proposed, S.B. 664 amends current law relating to the punishment for certain intoxication offenses.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 42A.102(b), Code of Criminal Procedure, as follows:

(b) Authorizes a judge, in all other cases, to grant deferred adjudication community supervision unless:

(1) the defendant is charged with an offense:

(A) under Section 49.045 (Driving While Intoxicated with Child Passenger), 49.05 (Flying While Intoxicated), 49.065 (Assembling or Operating an Amusement Ride While Intoxicated), 49.07 (Intoxication Assault), or 49.08 (Intoxication Manslaughter), rather than Sections 49.04 through 49.08, Penal Code. Makes nonsubstantive changes.

(B) under Section 49.04 (Driving While Intoxicated) or 49.06 (Boating While Intoxicated), Penal Code, and, at the time of the offense, the defendant held a commercial driver's license or a commercial driver learner's permit;

(C) for which punishment may be increased under Section 49.09 (Enhanced Offenses and Penalties), Penal Code, or;

(D) redesignates existing Paragraph (B) as Paragraph (D). Makes no further changes to this paragraph;

(2) through (4) makes no changes to these subdivisions.

SECTION 2. Amends Article 42A.408, Code of Criminal Procedure, by adding Subsection (i), to require a judge granting deferred adjudication community supervision to a defendant for an offense under Section 49.04 or 49.06, Penal Code, to require the defendant to have an ignition interlock device installed under this section, regardless of whether the defendant would be required to have the device installed if the defendant was convicted.

SECTION 3. Amends Section 411.074(b), Government Code, to include an offense under Section 49.04 or 49.06, Penal Code, under which a certain person is prohibited from being granted an order of nondisclosure of criminal history record information and under which a certain person is not entitled to petition the court for an order.

SECTION 4. Amends Sections 49.09(b) and (g), Penal Code, as follows:

(b) Includes Section 49.045 as a section under which an offense is a third degree felony if it is shown in the trial of the offense that the person has previously been convicted a certain number of times of certain offenses.

(g) Provides that deferred adjudication community supervision for an offense under Section 49.04 or 49.06 is considered a conviction for purposes of enhancement of penalties under this section or Subchapter D (Exceptional Sentences), Chapter 12 (Punishments).

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2017.