

BILL ANALYSIS

Senate Research Center
88R17175 JSC-D

C.S.H.B. 5183
By: Guillen (Johnson)
Criminal Justice
5/19/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is confusion regarding what type of treatment facilities the Department of State Health Services (DSHS) needs to monitor and coordinate, and for which they need to provide training, with regard to equivalent educational programs for individuals whose driver's license is suspended following conviction of certain drug offenses. This confusion has rendered DSHS unable to adequately fulfill its responsibilities with regard to these facilities. H.B. 5183 seeks to provide clarity regarding DSHS's duties relating to these treatment facilities and programs.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 5183 amends current law relating to educational programs for persons whose driver's license is suspended following conviction of certain drug offenses.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Department of State Health Services is transferred to the Health and Human Services Commission in SECTION 8 (Section 521.375, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Reenacts Section 106.115(a), Alcoholic Beverage Code, as amended by Chapters 663 (H.B. 1560) and 948 (S.B. 1480), Acts of the 87th Legislature, Regular Session, 2021, and amends it, as follows:

(a) Requires the court, on the placement of a minor on deferred disposition for an offense under certain statutes, to require the defendant to successfully complete one of certain programs, including a substance misuse education program, rather than a drug education program, under a certain section, that is regulated under a certain chapter.

Deletes existing text that includes a drug and alcohol driving awareness program under Section 1001.103 (Drug and Alcohol Driving Awareness Programs), Education Code, in the list of programs a court, on the placement of a minor on deferred disposition for an offense under certain statutes, is authorized to require the defendant to complete.

SECTION 2. Amends Section 106.115(a-1), Alcoholic Beverage Code, as follows:

(a-1) Requires the court, on conviction of a minor of an offense under certain statutes, in addition to assessing a fine as provided by those sections, to require a defendant who has not been previously convicted of an offense under one of those sections to successfully complete an alcohol awareness program or a substance misuse education program. Deletes existing text that includes a drug and alcohol driving awareness program described by Subsection (a) (relating to defining "drug and alcohol driving awareness program") among the programs a court is required, on conviction of a minor who has not been previously convicted of an offense under one of certain statutes, to require the defendant to successfully complete. Makes conforming changes.

SECTION 3. Amends Article 42A.514, Code of Criminal Procedure, as follows:

Art. 42.514. COMMUNITY SUPERVISION FOR CERTAIN ALCOHOL OR DRUG RELATED OFFENSES. (a) Authorizes the judge, if a judge grants community supervision to a defendant younger than 18 years of age convicted of an alcohol-related offense under certain statutes, or an offense involving possession of a controlled substance or marihuana under certain statutes, to require the defendant as a condition of community supervision to successfully complete, as appropriate, a substance misuse education program, rather than a drug education program, that is designed to educate persons on the dangers of substance misuse, rather than drug abuse.

(b) Makes a conforming change.

SECTION 4. Amends Articles 45.051(b) and (g), Code of Criminal Procedure, as follows:

(b) Authorizes the judge, during the deferral period, to require the defendant to successfully complete an alcohol awareness or substance misuse treatment or education program, such as a substance misuse education program that is designed to educate persons on the dangers of substance misuse in accordance with a certain section, and that is regulated by TDLR under a certain chapter. Makes conforming and nonsubstantive changes.

(g) Refers to "substance misuse education," rather than "drug education."

SECTION 5. Amends Section 53.03(h-1), Family Code, as follows:

(h-1) Authorizes deferred prosecution under Section 53.03 (Deferred Prosecution), if the child is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision that violates certain statutes, to include a condition that the child successfully complete a substance misuse education program, rather than a drug education program, that is designed to educate persons on the dangers of substance misuse, rather than drug abuse.

SECTION 6. Amends Sections 54.047(a) and (f), Family Code, to make conforming changes.

SECTION 7. Amends Section 521.374, Transportation Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Authorizes a person whose license is suspended under Section 521.372 (Suspension or License Denial) to successfully complete education on the dangers of substance misuse, rather than of the dangers of drug abuse, while the person is a resident of a facility for the treatment of substance misuse or chemical dependency. Makes conforming and nonsubstantive changes.

(a-1) Requires the Texas Department of Criminal Justice (TDCJ) to approve the equivalent education in facilities described by Subsections (a)(2)(A) (relating to a substance abuse treatment facility or substance abuse felony punishment facility operated by TDCJ) and (B) (relating to a community corrections facility). Requires the Health and Human Services Commission (HHSC) to approve the equivalent education in a facility described by Subsection (a)(2)(C) (relating to a licensed chemical dependency treatment facility).

SECTION 8. Amends Section 521.375(c), Transportation Code, as follows:

(c) Requires HHSC, rather than DSHS, to publish the jointly adopted rules under Subsection (a-1) (relating to requiring the executive commissioner of HHSC and the Texas Department of Transportation to jointly adopt rules for the qualification and approval of equivalent education provided in a residential treatment facility described by a certain section).

SECTION 9. Amends the heading to Section 521.376, Transportation Code, to read as follows:

Sec. 521.376. DUTIES OF TEXAS DEPARTMENT OF LICENSING AND REGULATION, HEALTH AND HUMAN SERVICES COMMISSION, AND TEXAS DEPARTMENT OF CRIMINAL JUSTICE; APPLICATION AND RENEWAL FEES.

SECTION 10. Amends Section 521.376, Transportation Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that HHSC, rather than DSHS:

(1) is required to monitor a chemical dependency treatment facility's compliance with providing the approved educational program as described by a certain section providing equivalent education, rather than to monitor, coordinate, and provide training to residential treatment facilities described by a certain section providing equivalent education; and

(2) is required to administer the approval of the equivalent education provided in a chemical dependency treatment facility described by Section 521.374(a)(2)(C).
Makes a conforming change.

(c) Provides that TDCJ:

(1) is required to monitor the compliance of a facility described by Section 521.374(a)(2)(A) or (B) with providing the approved educational program as described by Section 521.374(a)(2) providing equivalent education; and

(2) is required to administer the approval of the equivalent educational program provided in a facility described by Section 521.374(a)(2)(A) or (B).

SECTION 11. Effective date: upon passage or September 1, 2023.