

- SUBJECT:** Requiring a DPS database for defendants subject to alcohol monitoring
- COMMITTEE:** Homeland Security and Public Safety — committee substitute recommended
- VOTE:** 9 ayes — Nevárez, Paul, Burns, Calanni, Clardy, Goodwin, Israel, Lang, Tinderholt  
0 nays
- WITNESSES:** For — Scott Jones, Bryan Police Department; Robert Garcia, Round Rock Police Department; (*Registered, but did not testify:* Anne O’Ryan, AAA Texas; Adam Cahn, Cahnman’s Musings; Steve Bresnen, El Paso County; Mark Ramsey, Republican Party of Texas; Vincent Giardino, Tarrant County Criminal District Attorney’s Office; Noel Johnson, TMPA; Sam Bryant; Terri Hall; Susan Peabody; William Zimmerman)  
Against — None  
On — John Barton, Justices of the Peace and Constables Association; (*Registered, but did not testify:* Mike Lesko, Texas Department of Public Safety)
- BACKGROUND:** Government Code sec. 509.004(a) requires the Community Justice Assistance Division of the Texas Department of Criminal Justice (TDCJ) to submit certain information to the Department of Public Safety about persons prohibited from operating a motor vehicle without an alcohol monitoring device.
- DIGEST:** CSHB 364 would require courts, magistrates, and judges to provide the Texas Department of Public Safety (DPS) with information about defendants who were restricted to operating a motor vehicle with an ignition interlock device or required to use any other alcohol monitoring device. DPS would be required to maintain this information in a database that could be made available to a peace officer through a mobile data terminal.

The bill would make it a class C misdemeanor (maximum fine of \$500) to violate an ignition interlock restriction or alcohol monitoring requirement.

**Database.** The database would include the name and birth date of each defendant subject to an ignition interlock restriction or alcohol monitoring requirement as a condition of bail or community supervision. This information also would be included for each defendant subject to an ignition interlock restriction as a condition of an occupational driver's license following conviction of certain intoxication offenses or due to a court order following repeat convictions for operating a motor vehicle while intoxicated.

The database also would have to contain the date that each restriction would expire. A defendant's name would be removed upon the expiration or termination of the restriction or requirement.

**Reporting requirements.** Magistrates or judges would be required to submit to DPS a copy of orders relating to restrictions or requirements for alcohol monitoring, along with the defendant's name and date of birth and the date the restriction or requirement would expire, as applicable.

A court receiving an indictment or information alleging an offense for which the defendant was subject to alcohol monitoring as a condition of bond would be required to notify DPS of the defendant's name and date of birth and whether the defendant remained subject to the condition. After a defendant's conviction of certain intoxication offenses, a court would determine whether a defendant had been subject to such a condition of bond. Within five days of conviction, the clerk of the court would be required to provide DPS with a copy of the order of conviction, the defendant's name and date of birth, and whether the defendant remained subject to the condition following conviction.

TDCJ would no longer have to require local probation departments to provide DPS with information about persons prohibited from operating a motor vehicle without an alcohol monitoring device.

**Bond.** The bill would allow a magistrate to require alcohol monitoring through a device other than an ignition interlock device as a condition of release on bond for certain intoxication offenses. The cost of alcohol monitoring could be assessed as court costs or ordered paid by the defendant as a condition of bond.

**Effective date.** DPS would be required to design and implement the database by January 1, 2020, and the reporting requirements imposed on courts, magistrates, and judges would apply to an order, indictment, or information on or after that date.

The bill would take effect September 1, 2019.

**SUPPORTERS  
SAY:**

CSHB 364 would increase compliance with court-ordered alcohol monitoring by requiring courts to provide information on drivers subject to monitoring to DPS for a centralized database that would be available to police during a traffic stop. The bill would enhance compliance by making it a misdemeanor to violate such a court order.

The bill would close gaps in current law that could allow defendants to circumvent court-ordered alcohol monitoring requirements. Courts are not required to submit information about drivers ordered to use these devices, and police have no way of knowing whether a driver is required to have an ignition interlock or other alcohol monitoring device unless the device is installed in the vehicle being stopped. Even when police become aware that a driver is violating such an order, there is no mechanism to make the court aware of the violation.

By making a violation of court-ordered alcohol monitoring a misdemeanor punishable only by a maximum fine of \$500 that could be waived by the court, the bill balances the need to create a mechanism for informing the court of a violation with concerns about unduly punishing violators.

**OPPONENTS**

CSHB 364 would criminalize violations of court orders that already can

SAY: be addressed through other mechanisms, such as revocation of bond or probation.