

## **BILL ANALYSIS**

Senate Research Center  
82R1493 GCB-D

S.B. 903  
By: Patrick, Hinojosa  
Criminal Justice  
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As Filed

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

Currently, deferred adjudication is not an option for driving while intoxicated (DWI) offenders. This has created a major backlog in the courts, leading to a delayed justice system and more incentive for offenders to plead other crimes to avoid a DWI conviction.

S.B. 903 allows for deferred adjudication for first-time DWI offenders. This legislation should result in more DWI enforcement, not less, because it provides prosecutors with another option to present to defendants and creates a record. Although the offense will not be a conviction, the offense will remain on a person's record, so that a prosecutor may consider the offense for a penalty enhancement if the person commits a subsequent alcohol-related offense. In addition, a judge is required to require that an ignition-interlock device be installed on an offender's vehicle, as a condition of deferred adjudication for certain alcohol-related offenses.

As proposed, S.B. 903 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 Section 5(d), Article 42.12, Code of Criminal Procedure, as follows:

(d) Authorizes the judge, in all other cases, to grant deferred adjudication unless certain conditions apply, including in the event that the defendant is charged with an offense under Section 49.045 (Driving While Intoxicated with a Child Passenger), 49.07 (Intoxication Assault), or 49.08 (Intoxication Manslaughter), rather than Sections 49.04-49.08, Penal Code; under Section 49.04 (Driving While Intoxicated), 49.05 (Flying While Intoxicated), 49.06 (Boating While Intoxicated), or 49.065 (Assembling or Operating an Amusement Ride While Intoxicated), Penal Code, and at the time of the offense, the defendant held a commercial driver's license or a commercial diver learner's permit; for which punishment may be increased under Section 49.09 (Enhanced Offenses and Penalties), Penal Code; or for which punishment may be increased under Section 481.134(c) (relating to the minimum term of confinement for an offense), (d) (relating to a felony in the third degree), (e) (relating to a jail felony), or (f) (relating to a class A misdemeanor), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any one of those subsections.

SECTION 2. Amends Section 13, Article 42.12, Code of Criminal Procedure, by adding Subsection (o), to require a judge granting deferred adjudication to a defendant for an offense under Section 49.04, 49.05, 49.06, or 49.065, Penal Code, to require the defendant to have an ignition interlock device installed under Subsection (i) (relating to authorizing required community supervision), regardless of whether the defendant would be required to have the device installed if the defendant was convicted.

SECTION 3. Amends Section 411.081(e), Government Code, to provide that a person is not entitled to petition the court under Subsection (d) (relating to petitioning to be placed on deferred adjudication) if the person was placed on the deferred adjudication community supervision for or has been previously convicted or placed on any other deferred adjudication for certain offenses, including an offense under Section 49.04, 49.05, 49.06, or 49.065, Penal Code.

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

(b) Provides that an offense under Section 49.04, 49.045, 49.05, 49.06, or 49.065 is a felony of the third degree if it is shown on the trial of the offense that the person has previously been convicted of certain offenses.

(g) Provides that a deferred adjudication for an offense under Section 49.04, 49.05, 49.06, or 49.065 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, 2011.