

BILL ANALYSIS

C.S.H.B. 364
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Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There have been calls to provide magistrates greater flexibility in oversight of certain defendants charged with intoxication-related offenses who are released on bond. Moreover, concerns have been raised about the inability of police officers to see who is required to have an ignition interlock device installed on their motor vehicle when conducting a traffic stop. C.S.H.B. 364 seeks to address these issues by authorizing a magistrate to require a defendant to submit to alcohol monitoring as a condition of release on bond; requiring the Department of Public Safety to design, develop, and maintain a centralized database regarding required alcoholic monitoring and ignition interlock devices ordered by a court; and creating an offense for a person who violates a requirement relating to such monitoring or devices.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 364 amends the Code of Criminal Procedure to authorize a magistrate to require as a condition of release on bond that a defendant charged with certain intoxication-related offenses submit to alcohol monitoring through the use of an alcohol monitoring device other than an ignition interlock device. The bill authorizes the magistrate to revoke the bond and order the defendant arrested if the defendant violates a condition of alcohol monitoring, refuses to submit to alcohol monitoring, or fails to pay the costs of alcohol monitoring. The bill authorizes the costs of the alcohol monitoring to be assessed as court costs or ordered paid directly by the defendant as a condition of bond. These provisions apply on or after January 1, 2020.

C.S.H.B. 364 amends the Government Code to require the Department of Public Safety (DPS) to design and implement, not later than January 1, 2020, and to maintain a computerized central database containing information regarding defendants who are restricted to the use of a motor vehicle equipped with an ignition interlock device or ordered to use any other alcohol monitoring device. The bill requires the database to include the name and date of birth of each defendant and, if applicable, the date each restriction expires. The bill sets out requirements for the manner in which the database provides that information and the prompt updating of information in the database. The bill requires DPS to remove a defendant's name from the database on the expiration of the ignition interlock restriction or alcohol monitoring requirement for that defendant or on other notification that the restriction or requirement has been terminated.

C.S.H.B. 364 removes the requirement for the community justice assistance division of the Texas Department of Criminal Justice to require each community supervision and corrections department to submit to DPS certain identifying information for each person restricted to the operation of a motor vehicle equipped with a device that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the restricted operator.

C.S.H.B. 364 amends the Code of Criminal Procedure to require a court, on receiving an indictment or information alleging an offense for which a person was, as a condition of bond, restricted to the operation of a motor vehicle equipped with an ignition interlock device or ordered to submit to alcohol monitoring, to submit to DPS for inclusion in the central database a statement indicating the defendant's name and date of birth and whether the defendant remains subject to the restriction or condition. The bill requires the court in which a conviction of certain applicable intoxication-related offenses is entered to determine whether the defendant was previously restricted to the operation of a motor vehicle equipped with an ignition interlock device or ordered to submit to alcohol monitoring as a condition of bond and requires the clerk of the court, not later than the fifth day after the date the person is convicted, to submit that same information to DPS for inclusion in the central database. These provisions apply on or after January 1, 2020.

C.S.H.B. 364 amends the Code of Criminal Procedure, the Penal Code, and the Transportation Code to require a magistrate, court, or judge, as applicable, who restricts a defendant to the operation of a motor vehicle equipped with an ignition interlock device or who modifies the order imposing the restriction on or after January 1, 2020, to submit a copy of the order imposing the restriction or the order for modification, as applicable, the defendant's name and date of birth, and, if applicable, the date the restriction expires to DPS for inclusion in the central database.

C.S.H.B. 364 amends the Penal Code to create a Class C misdemeanor offense for a person who violates a condition of bond, a condition of community supervision, a condition of holding an occupational driver's license, or a court order, as applicable, restricting the person to the operation of a motor vehicle equipped with an ignition interlock device or requiring the use of another alcohol monitoring device.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 364 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions creating the Class C misdemeanor offense.

The substitute includes provisions authorizing a magistrate to require a defendant charged with certain intoxication-related offenses to submit to alcohol monitoring as a condition of release on bond. The substitute includes such a defendant at the time of bond and on conviction, if applicable, among those whose information is included in the centralized database.

The substitute includes provisions requiring the submission of information to the database on a person who, as a condition of community supervision, is subject to certain alcohol monitoring.

The substitute does not include provisions relating to minimum standards for vendors of ignition interlock devices.