

87th Legislature Bill Summaries

The TxIDTF Legislative Subcommittee has compiled a summary of bills from the 87th Legislature Session that impact impaired driving and traffic safety.

To read the summaries, click on the bill hyperlink below, and you will be directed to the appropriate summary on the subsequent pages.

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HB 385**Subject: Supervision of Probation & Early Termination of Probation****Effective: September 1, 2021**

HB 358 amends several sections of Art. 42A of the Code of Criminal Procedure. It removes several general conditions (avoid disreputable places and persons) and makes them discretionary. It allows for early termination even if payments are delinquent. It further changes the court's manner of addressing delinquent or missing payments and the defendant's ability to pay. Finally, it grants credit after revocation of 30 days for completing faith-based, community or volunteer programs listed or in the court's discretion. Most provisions apply to any court proceeding after September 1, 2021. The credit applies only to probation orders entered after that date.

HB 558**Subject: Mandatory Blood Draws****Effective: September 1, 2021; applies only to an arrest after that date.**

Amends Section 724.012, Transportation Code, to require taking a blood specimen of a person arrested for a DWI or BWI offense under Chapter 49 of the Penal Code if:

- the person refuses the officer's request;
- the person was the operator of a motor vehicle or watercraft involved in an accident that the officer reasonably believes was due to the offense; and
- the officer reasonably believes that as a direct result of the accident an individual has died, will die or has suffered serious bodily injury.

The peace officer, however, must obtain a warrant or have probable cause to believe exigent circumstances exist prior to the taking of blood.

HB 1024**Subject: Pickup and Delivery of Alcoholic Beverages for Off-Premise Consumption****Effective: May 12, 2021**

HB 1024 amends Section 26.001 of the Alcoholic Beverage Code to greatly increase the ability of restaurants to provide alcoholic beverages for pick up or delivery. Sealed containers and valid ID by a person picking up or accepting delivery are still required by this section. Texans for Safe and Drug-Free Youth (TxSDY) requested that a public health and safety taskforce be created to evaluate the bill and make recommendations regarding preventing access to minors and impaired driving. The bill authors indicated support for the taskforce but did not add the language to the bill. TxSDY continues to monitor impacts of the policy change and encourage the creation of a taskforce.

HB 1256**Subject: Revenue for Specialty Courts****Effective: September 1, 2021**

HB 1256, also known as “The Judge Ruben G. Reyes Act,” is named after a Lubbock County District judge that died last year of COVID and was nationally known for his efforts to promote and improve drug courts. It renames and amends Subchapter C of Chapter 183 of the Tax Code. It provides 1% of all mixed beverage taxes be put in an account to fund specialty courts, including DWI courts.

HB 1403

Subject: Stacking of Sentences in Certain Offenses

Effective: September 1, 2021

HB 1403 amends Section 3.03 Code of Criminal Procedure to allow sentences coming from certain crimes to be “stacked” or ordered to be served consecutively as opposed to concurrently. It makes abundantly clear that Intoxication Manslaughter sentences can be stacked with Intoxicated Assault sentences. This includes offenses coming out of the same crash.

HB 1518

Subject: Extending Hours for Alcohol Sales at Hotels and on Sundays

Effective: September 1, 2021

Although many hotel guests are provided a minibar in their room that can be accessed at any time, they are only permitted to purchase and consume drinks at the hotel bar during certain hours. HB 1518 seeks to address this by authorizing alcoholic beverages to be sold to and consumed by hotel guests in hotel bars at any time. It amends Section 105.06 of the Alcoholic Beverage Code (Hours of Consumption) by adding Subsection (f) to authorize a person who is a registered guest of a hotel to consume or possess alcoholic beverages in the hotel bar at any time. Additionally, the bill amends Chapter 105 of the Alcoholic Beverage Code by adding Section 105.091 (Hours of Sale; Hotel Bar) to define “hotel bar” as an establishment that is located in a hotel and holds a permit or license providing for the on-premises consumption of alcoholic beverages.

Furthermore, Section 105.05(b) of the Alcoholic Beverage Code (Hours of Sale: Malt Beverages) is amended to change the earliest time a store may sell beer and wine on Sundays from noon to 10:00 a.m.

HB 1535

Subject: Increases to Compassionate Care Act (Low THC Cannabis Oils)

Effective: September 1, 2021

HB 1535 amends Chapter 487 of the Health and Safety Code creating institutional review boards for the study of low THC cannabis. It also amends Chapter 169 of the Occupations Code allowing low THC oils prescribed to have up to 1% THC (doubling early limitations), be prescribed by only a single doctor, and be prescribed for more ailments including PTSD. The added conditions include all cancers, rather than just terminal cancer, and post-traumatic stress disorder (PTSD). HB 1535 originally included chronic pain as an approved condition, but it was removed from the bill’s final language.

HB 3212

Subject: Including Street Racing in Driver Education and Driving Safety Course Curricula

Effective: September 1, 2021

HB 3212 adds Section 1001.1021 to the Education Code to require that information relating to the dangers and consequences of street racing in violation of Section 545.420 of the Transportation Code be included in the curriculum for each driver education and driving safety course.

SB 181

Subject: Alternatives to Driver's License Suspension Following Drug Offenses

Effective: September 1, 2021

Currently, under Section 521.372 of the Transportation Code, a person's driver's license is automatically suspended for at least six months upon conviction of an offense under the Controlled Substance Act or a drug offense. This section's enactment coincided with the enactment of a federal law (23 U.S.C. Section 159) in 1991 that requires states to impose these mandatory driver's license suspensions.

SB 181's passage was contingent on the passage of SCR 1 (the Texas Legislature's formal opposition to these federally mandated suspensions). SB 181 ends these mandatory suspensions in Texas by amending the Code of Criminal Procedure and the Transportation Code. The bill adds Article 102.0179 to the Code of Criminal Procedure, which imposes a new \$100 fine on defendants who are convicted of drug offenses but whose licenses are not suspended. Section 521.372 of the Transportation Code is amended to only require driver's license suspensions for individuals convicted of felony drug offenses or two or more misdemeanor drug offenses in a three-year period. SB 181 also adds Section 521.372(b-1) to the Transportation Code, which gives judges the discretion to suspend a defendant's driver's license for a first misdemeanor drug offense if doing so is in the interest of public safety. Finally, SB 181 provides that licenses currently suspended under Section 521.372 of the Transportation Code shall be reinstated three months after the United States Secretary of Transportation informs Texas that federal highway funds will not be withheld, if such a decision is made.

SB 335

Subject: Toxicology Evidence Retention, Preservation, and Destruction

Effective: September 1, 2021

This bill attempts to clear up ambiguities in Article 38.50 of the Texas Code of Criminal Procedure which specifies the timeframes for the retention, preservation and destruction of toxicological evidence (blood or urine specimen) collected as part of an investigation for an offense committed under Chapter 49 of the Texas Penal Code (Intoxication Offenses).

The bill makes the following changes:

- Adds the retention period for charges that have been dismissed without prejudice to the greater of two years or the period of the statute of limitations
- Requires that the entity that collected the evidence from the person give notice to that person of the retention period
- Requires the courts to give notice if the entity described in #2 does not

- If a prosecutor has presented an indictment, information or petition in the case, the prosecutor can require the entity storing the evidence to seek written approval from the prosecutor before destroying that evidence
- A person who is asked to submit to the taking of a blood specimen must be notified that the specimen will be retained and preserved in accordance with Art. 38.50 of the Code of Criminal Procedure
- A person who consents to the taking of a specimen will be asked to sign a statement that indicates that the officer requested that the person submit to taking of a specimen, that the person was informed of the consequences of not submitting, and the person voluntarily consented

SB 1047**Subject: Service of Blood Search Warrants****Effective: September 1, 2021**

This bill adds Art. 18.067 to Chapter 18 of the Code of Criminal Procedure. This article allows a search warrant issued to collect a blood specimen from a person suspected of committing an intoxication offense to be executed in any county adjacent to the county in which the warrant was issued and by any law enforcement officer authorized to make an arrest in the county of execution. The blood can then be returned to the county in which the warrant was issued without a court order.

SB 1480**Subject: Court Ordered Education Programs****Effective: September 1, 2021**

SB 1480 amends Section 106.115, Alcoholic Beverage Code, to require that a minor convicted of an offense under Section 49.02, Penal Code, or Sections 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, Alcoholic Beverage Code, successfully complete (not just attend) the appropriate educational program.

It also amends Art. 42A.403(a), Code of Criminal Procedure, to require a judge who places a defendant convicted of an offense under Sections 49.04 – 49.08, Penal Code, to require the defendant, as a condition of community supervision, to successfully complete (not just attend) an appropriate educational program.

It also amends Art. 42A.403(d), Code of Criminal Procedure, to allow a judge, in determining whether there is good cause to waive or extend the time for completing an educational program, to consider the distance a person must travel to attend an in-person educational program and whether the person has access to adequate internet service to be able to complete an educational program online.

It also amends Section 521.374, Transportation Code, to permit a person whose license has been suspended under Section 521.372 to attend an in-person or online educational program.

It adds Subtitle M to Title 2, Government Code, to require the Department of Licensing and Regulation to establish standards and procedures for court ordered education programs, including alcohol education programs for minors, drug offense education programs, intervention programs for intoxication offenses and education programs for intoxication offenses.

SB 1495**Subject: Highway Racing and Reckless Driving Exhibitions****Effective: September 1, 2021**

SB 1495 amends Section 42.03 of the Penal Code (Obstructing Highway or Other Passageway) by adding Subsection (d), which makes the Class B Misdemeanor of Obstructing Highway or Other Passageway enhanceable to a Class A Misdemeanor if, at the time of the offense, the person was engaged in a reckless driving exhibition. The bill also adds Subsection (f) to provide a definition for reckless driving exhibition: an operator of a motor vehicle, on a highway or street and in the presence of two or more persons assembled for the purpose of spectating the conduct, intentionally: (1) breaks the traction of the vehicle's rear tires; (2) spins the vehicle's rear tires continuously by pressing the accelerator and increasing the engine speed; and (3) steers the vehicle in a manner designed to rotate the vehicle. Added Subsection (e) makes an offense under Section 42.03 enhanceable to a state jail felony if the defendant has a prior conviction under Section 42.03(d) or was intoxicated, as defined by Section 49.01 of the Penal Code, at the time of the offense.

SB 1495 creates a new Class B misdemeanor in Section 545.4205 of the Transportation Code (Interference with Peace Officer Investigation of Highway Racing or Reckless Driving Exhibition). Under Section 545.4205, a person commits an offense if the person uses the person's body, a car, or a barricade to knowingly impede or otherwise interfere with a peace officer's investigation of conduct prohibited under Section 545.420 of the Transportation Code (Racing on Highway) or a reckless driving exhibition as defined by the new Section 42.03(f) of the Penal Code.

SCR 1**Subject: Opposition to Mandatory Driver's License Suspensions for Drug Offenses****Effective: May 28, 2021**

States are required under federal law (23 U.S.C. Section 159) to enact and enforce a mandatory driver's license suspension of at least six months for an individual convicted of a drug-related offense, including a misdemeanor. Failure to do so could result in a withholding of 10% of a state's federal aid for highways. In 1991, Texas enacted Section 521.372 of the Transportation Code, which provides for mandatory driver's license suspensions of at least six months upon final conviction of an offense under the Controlled Substances Act, a drug offense, or a felony under Chapter 481 of the Health and Safety Code that is not a drug offense.

Under federal law, as an alternative to enacting and enforcing mandatory driver's license suspensions for drug offenses, a state's governor can submit a certification to the U.S. Secretary of Transportation expressing opposition to such mandates. In doing so, a governor must also certify that the state legislature has adopted a concurrent resolution expressing the same opposition.

SCR 1 is the Texas legislature's concurrent resolution expressing official opposition to Texas's enforcement of such a law. It was signed by Governor Greg Abbott on May 28, 2021. The legislature's rationale for SCR 1 is that 23 U.S.C. 159 inappropriately limits the ability of Texas courts to exercise discretion in determining punishment. The legislature also notes that driver's license suspensions make it difficult for defendants to keep a job and provide for their family.

SB 6 (Second Special Session)**Subject: Bail Reform (The Damon Allen Act)****Effective: 1/1/22 (with certain provisions taking effect on 12/2/21 or 4/1/22)**

Amends Chapter 17 of the Code of Criminal Procedure to provide more complete and accurate information to a magistrate in setting bail and bond conditions, including a defendant's criminal history record information, and requiring a magistrate, after individualized consideration of all the factors listed in Art. 17.15, to order the defendant to be: (1) granted a personal bond with or without conditions; (2) granted a bail bond with or without conditions; or (3) denied bail under the Texas Constitution and other laws. In setting bail the magistrate must impose the least restrictive condition, if any, and the personal bond or bail bond necessary to ensure the defendant's appearance in court and the safety of the community, law enforcement and the victim. The bill includes the following provisions, among others, to help achieve these goals:

- OCA must develop a public safety report system available for purposes of setting bail and bond conditions. The system must provide information on the defendant's eligibility for a personal bond, the applicability of any required or discretionary bond conditions, and the defendant's criminal history. The system must be created by April 1, 2022.
- A public safety report must be prepared using the public safety report system in setting bail and bond conditions for a defendant charged with a Class B misdemeanor or higher-level offense.
- A magistrate must be in compliance with training requirements in order to be eligible to release a defendant on bail. The training requirements consist of an 8-hour initial training course to be completed within 90 days of taking office and a 2-hour continuing education course in each biennium. OCA must develop the training courses and a certification method by April 1, 2022. A magistrate serving on April 1, 2022, is in compliance if they complete the training course by December 1, 2022.
- In setting bail the magistrate or judge must consider (among other factors): whether the offense involved violence or violence against a peace officer; the criminal history record information for the defendant, including any acts of family violence, other pending criminal charges, and any instances in which the defendant failed to appear in court after release on bail; and the citizenship status of the defendant.
- A defendant may not be released on a personal bond if the defendant is charged with an offense involving violence or if the defendant, while released on bail or community supervision for an offense involving violence, is charged with committing a felony or an offense alleging assault, deadly conduct, terroristic threat or disorderly conduct involving a firearm.
- If a defendant is charged with committing a felony while released on bail for another felony, and the subsequent offense was committed in the same county as the previous offense, then only the court before whom the case is pending (or a court designated in writing by that court) may release the defendant on bail. If the subsequent offense was committed in a different county than the

previous offense, then electronic notice of the charge must be given to the court before whom the case is pending (or a court designated in writing by that court) for purposes of re-evaluating the bail decision, determining whether any bail conditions were violated or taking other action.

- A defendant charged with a Class B offense or higher offense who is unable to give bail in the amount required by a bail schedule or standing order (other than a defendant who is denied bail) must be provided with an opportunity to file with the magistrate a sworn affidavit stating that they do not have the means to pay the required bail amount and request that an appropriate bail be set. If an affidavit is filed, the magistrate must promptly review the bail amount. If the magistrate does not set the defendant's bail below the amount required by a bail schedule or standing order the magistrate must issue written findings of fact supporting the bail decision.
- Charitable bail organizations (with certain exceptions) must be a 501(c)(3) nonprofit and must be issued a certificate from the county clerk of any county in which they pay bail. They are subject to reporting requirements and their activities may be suspended if they fail to comply with these requirements.
- A copy of an order imposing bond conditions for the release of a defendant, and any order modifying or removing bond conditions, must be sent by the clerk of the court to the sheriff of the county where the defendant resides. The sheriff must enter the information into CJIS/CCH.