

DWI INTERVENTION PROGRAM
CODE OF CRIMINAL PROCEDURE
TITLE 1. CODE OF CRIMINAL PROCEDURE
CHAPTER 42A. COMMUNITY SUPERVISION
SECTIONS 42A.404-42A.406
(Effective September 1, 2017)

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SUBCHAPTER I. CONDITIONS APPLICABLE TO CERTAIN INTOXICATION OFFENSES

Art. 42A.404. EDUCATIONAL PROGRAM FOR CERTAIN REPEAT INTOXICATION OFFENDERS; WAIVER.

- (a) The judge shall require a defendant who is punished under Section 49.09, Penal Code, to attend and successfully complete as a condition of community supervision an educational program for repeat offenders that is approved by the Texas Department of Licensing and Regulation.
- (b) The judge may waive the educational program requirement if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider:
 - (1) the defendant's school and work schedule;
 - (2) the defendant's health;
 - (3) the distance that the defendant must travel to attend an educational program; and
 - (4) whether the defendant resides out of state or does not have access to transportation.
- (b-1) The judge shall waive the educational program requirement if the defendant successfully completes equivalent education at a residential treatment facility under Article 42A.4045.
- (c) The judge shall set out in the judgment, as applicable:
 - (1) the finding of good cause for waiver; or
 - (2) the finding that the defendant has successfully completed equivalent education as provided by Article 42A.4045.

*Added by Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 1.01, eff. January 1, 2017.
Amended by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. [1488](#)), Sec. 23.016(c), eff. September 1, 2017.
Amended by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. [1488](#)), Sec. 23.016(d), eff. September 1, 2017.*

Art. 42A.405. RULES FOR AND ADMINISTRATION OF EDUCATIONAL PROGRAMS.

- (a) The Texas Department of Licensing and Regulation shall adopt rules for the educational program under Article 42A.404.
- (b) The Texas Department of Licensing and Regulation shall:
 - (1) publish the jointly approved rules for the educational program under Article 42A.403; and
 - (2) monitor, coordinate, and provide training to persons providing the educational programs under this subchapter.
- (c) The Texas Department of Licensing and Regulation is responsible for the administration of the certification of approved educational programs.
- (d) The Texas Department of Licensing and Regulation may charge a nonrefundable application fee for the initial certification of approval or for a renewal of the certification.

*Added by Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 1.01, eff. January 1, 2017.
Amended by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. [1488](#)), Sec. 23.016(f), eff. September 1, 2017.*

Art. 42A.406. EFFECT OF EDUCATIONAL PROGRAM REQUIREMENTS ON DRIVING RECORD AND LICENSE.

- (a) If a defendant is required as a condition of community supervision to attend an educational program under Article 42A.403 or 42A.404, or if the court waives the educational program requirement under Article 42A.403 or the defendant successfully completes equivalent education under Article 42A.4045, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the defendant's driving record. If the court grants an extension of time in which the defendant may complete the educational program under Article 42A.403, the court clerk shall immediately report that fact to the Department of Public Safety on a form prescribed by the department. The clerk's report under this subsection must include the beginning date of the defendant's community supervision.
- (b) On the defendant's successful completion of an educational program under Article 42A.403 or 42A.404, the defendant's instructor shall give notice to the Department of Public Safety for inclusion in the defendant's driving record and to the community supervision and corrections department. The community supervision and corrections department shall forward the notice to the court clerk for filing.
- (b-1) Upon release from a residential treatment facility at which the person successfully completed equivalent education under Article 42A.4045, at the request of the court clerk, the director of the residential treatment facility shall give notice to the Department of Public Safety for inclusion in the person's driving record.

- (c) If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program within the period required by the judge under this subchapter, as shown on department records, the department, as provided by Sections 521.344(e) and (f), Transportation Code, shall:
- (1) revoke the defendant's driver's license; or
 - (2) prohibit the defendant from obtaining a license.
- (d) The Department of Public Safety may not reinstate a license revoked under Subsection (c) as the result of an educational program requirement imposed under Article 42A.403 unless the defendant whose license was revoked applies to the department for reinstatement of the license and pays to the department a reinstatement fee of \$100. The Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund.

*Added by Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 1.01, eff. January 1, 2017.
Amended by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. [1488](#)), Sec. 23.016(g), eff. September 1, 2017.*