

# TEXAS DWI BOND SCHEMATIC PROGRAM

Annual Newsletter

August 2017

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## A Message From General Counsel

**Randall L. Sarosdy**

Thank you for your participation in the Texas Justice Court Training Center's DWI Bond Schematic Program. TJCTC sincerely appreciates your county's commitment to reducing DWI offenses in the State of Texas, and we commend you for your dedication to the program.

We recently conducted the third Impaired Driving Symposium in Austin and are pleased to report it was very well attended and very well received. We believe there is great value in holding conferences that include justices of the peace, municipal court judges, county judges, county court at law judges and district judges and that afford the participants the opportunity to consider common approaches in dealing with DWI issues. The conference included many excellent speakers on developing legal issues and current practices. I was pleased to be able to speak on bills passed by the 85<sup>th</sup> Legislative Session affecting impaired driving issues, the DWI Bond Schematic Program (together with Judge Robin Ramsay) and Occupational Driver's License issues. We are looking forward to the fourth annual Impaired Driving Symposium on August 2-3, 2018, at Horsehoe Bay.

During the past year we have made progress in making additional counties aware of and interested in participating in the DWI Bond Schematic Program. Bandera County and Jim Wells County have adopted the program and I have met with judges and other officials in Duvall, Polk and Angelina Counties and have additional meetings scheduled in the coming months. We hope to expand these efforts further over the next year.

I'm very pleased to announce that Rebecca Glisan, a TJCTC staff attorney, has begun to work on impaired driving issues and will be teaching classes on alcohol issues relating to minors and occupational driver's licenses in the coming academic year. I will continue to focus on magistration issues and the DWI Bond Schematic Program.

If you would like to request changes to the forms used by your county to administer the program, or if you'd like to update the bond conditions you are using in DWI cases, please don't hesitate to contact us. We are ready to assist you with your county's administration of the program in any way that we can. Additionally, if you have any ideas about how we can better serve participating counties, please let us know. We want to continually improve and expand this program in order to reduce DWI offenses throughout the state. Thank you again for your participation. I look forward to working with all of you in the 2018 fiscal year.



# Legislative Updates: Highlights Relating to Impaired Driving Issues

By Randall L. Sarosdy

Here are some highlights relating to impaired driving issues from the 85<sup>th</sup> Regular Session of the Texas Legislature which concluded on May 29, 2017. Governor Abbott called a Special Session that met from July 17 through August 16 but no bills passed in the Special Session relating to impaired driving issues.

## [SB 966 \(Possession or Consumption Offenses by a Minor\)](#)

This bill amends Chapter 106 of the Alcoholic Beverage Code (Provisions Relating to Age) by exempting from prosecution for consumption or possession offenses a minor who reports a sexual assault of the minor or another person. Under new Sections 106.04(f) and 106.05 (e), a minor who reports the sexual assault of the minor or another person to (1) a health care provider treating the victim of the sexual assault, (2) an employee of a law enforcement agency (including campus police) or (3) a Title IX coordinator at an institution of higher education at which the minor is enrolled (or another employee responsible for responding to reports of sexual assault) may not be prosecuted for consumption or possession of alcohol by a minor.

## [HB 2059 \(Expunction of Alcohol Related Arrest of a Minor\)](#)

This bill amends Section 106.12 of the Alcoholic Beverage Code to allow a person placed under a custodial or noncustodial arrest for not more than one violation of the ABC while a minor and who was not convicted of the violation to apply to the court in which the person was charged to have the records of the arrest expunged. The application must contain the applicant's sworn statement that the applicant was not arrested for a violation of the ABC other than the arrest the applicant seeks to expunge. The court is to charge a fee in the amount of \$30 for each application for expunction. These procedures are separate and distinct from the expunction procedures under Chapter 55 of the Code of Criminal Procedure.

## [HB 557 \(Expunction Generally\)](#)

This bill allows a justice court to expunge all records and files relating to the arrest of a person for a fine only offense if: the person is acquitted of the offense; or the person is released and no charge is pending at least 180 days after the arrest and the person was not charged

with any other offense resulting from the arrest; or the prosecutor recommends expunction before the person is tried. On acquittal the court must advise the person of the right to expunction.

## [HB 681 \(Confidentiality of Records\)](#)

This bill makes records relating to a fine only offense confidential and not subject to public disclosure five years after the date of a final conviction or of a dismissal after a deferred disposition. This applies to the disclosure of information beginning September 1, 2017, but for offenses occurring before, on or after September 1, 2017.

## [HB 62 \(Ban on Texting While Driving\)](#)

This bill makes it a Class C misdemeanor offense for an operator of a motor vehicle to use a portable wireless communication device to read, write or send an electronic message while operating a motor vehicle unless the vehicle is stopped. It is an affirmative defense if the operator used the device: in conjunction with a hands-free device; to navigate using a GPS; to report illegal activity, summon emergency help, or enter information into an app that provides information concerning traffic and road conditions; to read an electronic message that the person believes concerns an emergency; affixed to the vehicle to relay information in the course of the person's occupational duties; or to play music. An officer who stops a vehicle may not take possession of or inspect the device unless authorized by law. If the person causes the death or serious bodily injury of another person, then the offense is a Class A misdemeanor punishable by confinement in jail up to one year and a fine of up to \$4,000. The law preempts local ordinances or regulations. A person under 18 may not operate a motor vehicle while using a wireless communication device at all, except in case of emergency.

Other Legislative Highlights affecting justice courts are discussed in the TJCTC Summer 2017 Newsletter.

# TRAFFIC SAFETY RESOURCES FROM THE TJCTC WEBSITE

## Further Reading

[Blood Alcohol Concentration in Texas: Improving Medical Examiner and County Performance](#)- A detailed study from the Center for Alcohol and Drug Education Studies with the Texas A&M Transportation Institute released in September 2016.

[Solutions for Saving Lives on Texas Roads](#)- The Texas Traffic Safety Task Force Report.

## Training Videos

[From One Second To The Next](#)- A film about texting and driving from Werner Herzog. This video is used in Teenage Driving Issues course for Court Personnel and the Traffic, Trucks, and Texting course for Justices of the Peace.

[Roadside Drug Testing Kit Demonstration](#)- A video about police roadside drug test.

[Road to Zero Symposium](#)- The National Highway Traffic Safety Administration announced a new initiative called Road to Zero. At the link, you will find videos from the symposium.

## Useful Websites

[Dyingtodrink.org](#)- A website that offers resources and countermeasures against impaired driving.

## Flow Charts and Forms

[Blood Search Flowchart](#)

[Toxicology Reporting Form](#)

## Newsletters

[2017 Traffic Safety Newsletter](#)

Featured Articles:

- Rehabilitation for Minors who

Have Committed Alcohol Offenses

- Improving Bond Conditions in DWI Cases Through the Texas DWI Bond Schematic Program
- Latest Report on Drugged Driving
- News on Legislative Session
- The Basics on Ignition Interlock

### [2016 Traffic Safety Newsletter](#)

Featured Articles:

- Courts to Law Enforcement: Get a Blood Search Warrant Before Drawing Blood
- Occupational Licenses and Ignition Interlock Devices
- Uber Claims Credit for Drop in Drunk Driving Accidents. But Where's the Evidence?

## Traffic Safety Websites

<http://www.nhtsa.gov/impaired> National Highway Traffic Safety Administration Impaired Driving Website

<http://tti.tamu.edu/group/cts/> Texas Transportation Institute Center for Traffic Safety

<http://www.txdot.gov/safety/tips/default.htm>

TxDOT Traffic Safety Tips

<http://www.nsc.org/Pages/Home.aspx>

National Safety Council

<http://www.texas trafficsafety coalition.com/>

Texas Traffic Safety Coalition

<http://www.tjctc.org/Educational-Programs/Traffic-Safety.html> TJCTC Traffic Safety Initiative

<http://www.cjcenter.org/idi/>

Impaired Driving Initiatives (SHSU)

## Texas DUI Statistics

- In 2016, 987 people lost their lives to DUI incidents, including 56 pedestrians and cyclists, 143 passengers in vehicles driven by DUI drivers, 638 DUI drivers, 149 persons in vehicles not driven by DUI drivers and one other.<sup>4</sup>

- By age, fatalities were as follows: 18 and younger: 46, aged 19-30: 392, aged 31-49: 348, aged 50-83: 201. The youngest person who lost their life was 1-year-old and the oldest was 83.<sup>5</sup>

- Of 17,434 DUI crashes, the five cities with the highest number of crashes were San Antonio: 1,845, Houston: 1,492, Austin: 1,432, Dallas: 1,310 and El Paso: 758.<sup>6</sup>

- A large majority of DUI crashes occur between 6 p.m. and 4 a.m., with the two highest days being Saturday and Sunday.<sup>7</sup>

- In 2015, 18 states actually saw decreases in alcohol-impaired fatalities compared to 2014, with Texas leading the way with 123 fewer deaths.<sup>8</sup>



Article provided by *The RightStep*

## Texas Drunk Driving Statistics

About every 20 minutes in Texas, someone is hurt or killed in a vehicular crash involving alcohol.<sup>1</sup> While many DUIs involve college students, the recent case of a Zapata County priest charged with driving while intoxicated after a single-car accident, shows this problem impacts people of all ages and walks of life.<sup>2</sup> In Montgomery County alone, the sheriff's office arrested 62 individuals as part of "Operation Blackout," an anti-DUI effort conducted during the 2017 Memorial Holiday weekend. Some of them were charged with driving while intoxicated with a child, one was a boating incident and several were third offenses.<sup>3</sup>

According to Texas law, being intoxicated while driving means having a blood-alcohol level (BAC) of 0.08 or higher. Regardless of the BAC, a person is considered intoxicated and driving under the influence if he or she is impaired in any way. A typical drinker can achieve that level of drunkenness from having two or three drinks in an hour. For women and adolescents, drinking just one or two drinks in an hour may lead to a BAC of 0.08.<sup>1</sup>

## Efforts to Curtail DUI Accidents

Since September 2005, judges in Texas have been required to order ignition interlocks for all repeat offenders or first-time offenders with a BAC of 0.15 or greater as a condition of probation. On June 19, 2015, Texas became the 25th state to pass an all-offender ignition interlock law. It requires all people caught driving while intoxicated (DWI) to have an ignition interlock installed on their vehicles in order to have their driving privileges restored following an arrest. Since then, Texas drunk driving deaths have decreased by 8.5%. As of August 2015, 43,789 interlocks have been installed in Texas. In the 10-year period between Dec. 1, 2006 and Dec. 1, 2016, these locks were responsible for preventing 244,991 drunk-driving ignition starts.<sup>9</sup>

Continued on page 5

## Texas Drunk Driving Statistics (continued from page 4)

In 1994, the Court of Criminal Appeals ruled that for any sobriety checkpoint to be reasonable, it must at a minimum be authorized by a statewide policy governing checkpoints. Texas has not authorized police officers to conduct roadblocks, nor sanctioned their enforcement. Therefore, sobriety checkpoints or similar roadblocks are unconstitutional in the state. Mothers Against Drunk Drivers suggests passing laws allowing these checkpoints and requiring ignition interlocks for drivers who refuse a chemical alcohol test could reduce the number of DUI deaths even further.<sup>9</sup>

Texas participates in a pretrial diversion program, formerly known as DIVERT, which offers an alternative to prosecution. First-time offenders who qualify for participation receive coordinated assistance in personal and group counseling, drug and alcohol rehabilitation and other community agencies appropriate to their needs. This program has firmly drawn guidelines, the terms of which generally are spelled out in a contract the judge signs off on before it begins. Most programs generally last a full year.<sup>10</sup>

With more than 15 locations throughout Texas, The Right Step family of addiction treatment centers is one of the largest in the Southwest. Call us at 1-844-768-1126, for more information.

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1. Driving While Intoxicated (DWI). Texas Department of Transportation website. <http://www.txdot.gov/driver/sober-safe/intoxication.html> Accessed June 6, 2017.
  2. Zapata priest arrested after allegedly driving drunk, crashing into ditch. LMTonline website. <http://www.lmtonline.com/local/crime/article/Zapata-priest-suspected-of-driving-drunk-11158259.php> Updated May 20, 2017. Accessed June 6, 2017.
  3. Ramirez F. Montgomery County police nab dozens of alleged drunk drivers during Memorial Day weekend. *Houston Chronicle*. May 31, 2017 <http://www.chron.com/neighborhood/conroe/news/article/Montgomery-police-arrest-DWI-memorial-day-drunk-11185762.php>. Accessed June 6, 2017.
  4. Texas Motor Vehicle Crash Statistics – 2016. Texas Department of Transportation. [http://ftp.dot.state.tx.us/pub/txdot-info/trf/crash\\_statistics/2016/50.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/trf/crash_statistics/2016/50.pdf) Accessed June 6, 2017.
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  9. Texas. Mothers Against Drunk Drivers website. <http://www.madd.org/drunk-driving/state-stats/Texas.html?referrer=https://www.google.com/> Accessed June 6, 2017.
  10. Rogers B. Outgoing DA dismisses DWI for prominent lawyer Tony Buzbee. *Houston Chronicle*. December 20, 2016. <http://www.chron.com/news/houston-texas/houston/article/Outgoing-DA-dismisses-DWI-for-prominent-lawyer-10806684.php>. Accessed June 6, 2017.

# Important New Studies Conclude that Mandatory Ignition Interlock Saves Lives

By Randall L. Sarosdy

Two major new studies have concluded that requiring all drivers convicted of driving under the influence of alcohol to install ignition interlock devices results in a significant reduction in the rate of alcohol-related crash deaths. The studies are based on an analysis of the impact of ignition interlock laws in all 50 states over the last 32 years. The findings have been reported in articles published in the American Journal of Public Health and the American Journal of Preventive Medicine. See [Impact of State Ignition Interlock Laws on Alcohol-Involved Crash Deaths in the United States](http://www.ajpmonline.org/article/S0749-3797(16)30587-6/abstract) (Kaufman); [http://www.ajpmonline.org/article/S0749-3797\(16\)30587-6/abstract](http://www.ajpmonline.org/article/S0749-3797(16)30587-6/abstract) (McGinty).

The articles note that “[a]lcohol-involved fatal motor vehicle crashes are a major cause of preventable mortality in the U.S. Thirty-one percent . . . of the 33,804 motor vehicle crash fatalities in 2013 involved at least one driver with blood alcohol content (BAC)  $\geq$  .08 g/dL.” McGinty at 1. This amount to approximately 11,000 deaths per year. Kaufman at 1. In Texas, 1,089 people died in alcohol-related crashes in 2013 (32.2% of all fatal crashes); 1,041 died in alcohol-related crashes in 2014 (29%); and 960 people died in alcohol-related crashes in 2015 (27%). Despite declining rates of motor vehicle crashes overall and alcohol-related crashes specifically over the last four decades, rates of alcohol-related crashes in the U.S. remain high.

As of 2016, all 50 states prohibit motorists from driving with a BAC greater than .08. But enforcement varies significantly from state to state. Although license suspension or revocation is the primary enforcement mechanism for DWI laws, it is widely recognized that license suspension or revocation is ineffective because more than half the people subject to such restrictions continue to drive anyway. Ignition interlock devices are seen as a more effective means of preventing alcohol-related driving. An ignition interlock is an alcohol-sensing device, connected to the ignition of a vehicle, which detects alcohol in the driver’s breath. If alcohol in excess of a preset limit is detected by the sensor, the vehicle will not start. McGinty at 2.

Although all 50 states have some form of ignition interlock laws, the scope of those laws varies. As of March 2016, two states have “permissive” interlock laws which allow judges at their discretion to require a person convicted of DWI to install an interlock; 22 states (including Texas) have “partial” interlock laws requiring the use of interlock devices for certain categories of offenders or in certain situations; and 26 states have “mandatory/all” interlock laws requiring all persons convicted of a DWI offense to use an interlock. McGinty at 2.

The use of interlock devices has increased dramatically in recent years. In 2006 there were 100,000 interlock devices in use nationwide; by 2010 this number had increased to 300,000. Significantly, interlocks have been shown to reduce drunk-driving recidivism by 50% to 90% while installed. Kaufman at 1. But the current studies are the first national analyses of the impact of mandatory/all interlock requirements on alcohol-related crash deaths. Kaufman at 2.

The conclusions of the studies are consistent: **requiring interlock devices saves lives.** The first study notes: “In this nationwide study of a major drunk driving-prevention policy initiative, we found that requiring all drivers convicted of driving under the influence of alcohol to install an ignition interlock device was associated with a **15% reduction in the rate of alcohol-involved crash deaths.** By preventing 0.8 deaths for every 100,000 people each year, this policy was comparable to airbags and the minimum legal drinking age . . . .” Kaufman at 4. The study estimated that 915 lives had been saved so far by the mandatory/all ignition interlock laws.

The second study was more specific in its analysis by examining the differences between mandatory/all interlock laws and partial interlock laws, which the first study did not examine. McGinty at 2. “This study suggests clear protective effects of mandatory/all interlock laws on alcohol-involved fatal crashes, which were associated with an estimated 7% reduction in BAC  $\geq$  0.08 and 8% reduction in BAC  $\geq$  0.15 fatal crashes. This translates into **approximately 1,250 BAC  $\geq$  0.08 fatal crashes prevented in states that implemented such laws between 1982 and**

## Important New Studies... (continued from page 6)

states that implemented such laws between 1982 and 2013.” McGinty at 4. The study concluded: “Laws mandating interlock use for all offenders are more effective at reducing alcohol-involved fatal crashes than laws requiring interlocks for segments of high-risk offenders. Enactment of mandatory/all interlock laws in states that currently have partial and permissive laws is a public health priority.” McGinty at 6.

Thus, although the methodology of the two studies varied and accordingly they reached different conclusions about the number of lives saved so far (915 v. 1,250), both studies provide strong evidence that mandatory/all ignition interlock laws are an important means in continuing to reduce the number of alcohol-related fatalities on our roads and highways.

Although justice courts do not hear cases resulting in the imposition of interlock devices following a conviction for DWI, justices of the peace do magistrate a very large number of DWI offenses each year and at that stage of the case have a very significant role in protecting the public by requiring ignition interlock devices as a bond condition under Arts. 17.40 and 17.441, Code of Criminal Procedure. For more information on this extremely important function, please see the article entitled DWI Bond Schematic Program or contact me at 512-347-9927, ext. 201.

## Contact Us

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## 2017-2018 TJCTC Educational Schedule

### 20-HOUR JUSTICE OF THE PEACE EDUCATIONAL SEMINARS

Dec. 3-6, 2017—Galveston  
Jan. 21-24, 2018—San Antonio  
Feb. 11-14, 2018—Austin  
April 15-18, 2018—Rockwall  
May 29-June 1, 2018—Lubbock

### 80-HOUR NEW JUSTICE OF THE PEACE EDUCATIONAL SEMINARS

Stage I  
Dec. 10-14, 2017—Austin  
Stage II  
Jan. 7-11, 2018—Austin  
Stage III  
Mar. 27-30, 2018—Austin

### 16-HOUR COURT PERSONNEL EDUCATIONAL SEMINARS

Nov. 13-15, 2017—Georgetown  
Jan 31-Feb 2, 2018—Bee Caves  
Feb. 26-28, 2018—Galveston  
Mar. 21-23, 2018—San Antonio  
June 4-6, 2018—San Marcos  
July 11-13, 2018—Rockwall

### 20-HOUR CIVIL PROCESS EDUCATIONAL SEMINARS

Feb. 20-23, 2018—San Antonio  
April 8-11, 2018—Rockwall  
May 6-9, 2018—Galveston  
July 15-18, 2018—Bee Caves

### 10-HOUR REGIONAL JPCA WORKSHOPS

Oct. 15-18, 2017—South Padre  
Nov. 1-2, 2017—Greenville  
March 28, 2018—**Round Rock\***  
March 7-8, 2018—Tyler  
April 12-13, 2018—San Angelo  
**\*SUBJECT TO CHANGE**

### CERTIFIED COURT PERSONNEL WORKSHOP

May 16, 2018—San Marcos

PLEASE VISIT OUR WEBSITE AT:  
[WWW.TJCTC.ORG](http://WWW.TJCTC.ORG)  
FOR A SCHEDULE OF OUR  
EDUCATIONAL WEBINARS

## Drunk Driving Prevention Tools

### Take the Sober Drivers Pledge

Make a personal commitment to avoid driving drunk as well as to prevent drunk driving when you see it about to happen right in front of you.

### Passenger Protection Tool

DrinkingAndDriving.Org and Uber are partnering to make sure you never allow yourself to be the Passenger of a drunk driver! If your ride home has been drinking, please please please do NOT get in the car with them. Your first Uber ride is free up to \$20 using the DrinkingAndDriving.Org code DADO Get yourself out of a potentially dangerous situation NOW.

### Print and Share

It's our DUI Avoidance Lesson Plan formatted as tri-fold brochures. Print the ones you like and give them to your family and friends. There is also a really cool door hanger to use at your next party.



How are you getting home?  
What is your Plan?  
Here are some useful tools to help you Make a Plan and Stick to the Plan.

### The National Directory of Designated Driver Services (NDDDS)

LAST UPDATED 6/30/17

1223 listings - 832 Counties - 42 States

Designated Driver Services are those companies that will drive you AND your car home safely! Read all about how to use one and see if one is available in your area by checking the most complete list of Designated Driver Services anywhere.

### Designated Driver Services Tools For

Resources and information for the Designated Driver Services industry. If you run a Designated Driver Service, or you want to start one, this page is for you.

### County Level Statistics and Resources

Explore drunk driving statistics down to the county level in our DUI Arrest/Fatality Rate Map. This map is actually a report card on the drunk driving habits across the country. DrinkingAndDriving.Org has graded every state and every county in the U.S.A. based on detailed statistics we've compiled on DUI arrest rates as well as DUI-related fatalities.

### Other Drunk Driving Prevention Tools

[Sober Rides](#) - From TxDOT, live public transportation routing info that works everywhere

[BAC Calculator](#) - from BuzzCheck

[Mr. Checkpoint](#) - Get DUI checkpoint updates on your phone