

# Ignition Interlock Laws

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# Resources

- ▶ Texas Constitution and Statutes Website: <https://statutes.capitol.texas.gov/>
- ▶ TJCTC Deskbooks: <http://www.tjctc.org/tjctc-resources/Deskbooks.html>
  - ▶ Administrative Proceedings Deskbook (Chapter 9: Occupational Driver's Licenses)
  - ▶ Magistration Deskbook (Chapter 2: Magistrate Duties Following an Arrest)
- ▶ Certified Texas IID Service Centers: <http://gato-docs.its.txstate.edu/jcr:1381e61e-4c31-4a1d-80e8-4cfdbd857861/iidServiceCenters.pdf>

# Abbreviations

- ▶ IID = Ignition Interlock Device
- ▶ CCP = Code of Criminal Procedure
- ▶ PC = Penal Code
- ▶ TC = Transportation Code

## Bond Condition

CCP Chapter 17

## Upon Conviction of Certain Offenses

PC 49.09(h)

## Community Supervision Condition (CCP 42A)

CCP 42A.407 & 42A.408

## Occupational Driver's License Restriction

TC Chapter 521, Subchapter L

# Bond Condition

CCP Chapter 17

When a person has been  
arrested on a DWI offense  
(PC 49.04-49.08) and is being  
released on bail pending trial

# Mandatory

IF a defendant is charged with any of the following Penal Code offenses, the person magistrating the defendant SHALL order a bond condition requiring the defendant to install an IID & not operate any motor vehicle without one:

An offense of:	A SUBSEQUENT offense of:
Intoxication Assault (PC 49.07)	DWI (PC 49.04)
Intoxication Manslaughter (PC 49.08)	DWI w/ Child Passenger (PC 49.045)
	Flying WI (PC 49.05)
	Boating WI (PC 49.06)

- Unless the magistrate finds it's not in the best interest of justice to require the device. (ex: if another type of device is ordered)

# Permissive

“To secure a defendant’s attendance at trial, a magistrate may impose any reasonable condition of bond related to the safety of a victim of the alleged offense or to the safety of the community”

-- CCP 17.40



# Installation

At the  
defendant's  
expense

Before the 30<sup>th</sup>  
day after the  
date the  
defendant is  
released on  
bond.

-- Art. 17.441(c), CCP

# Monitoring

-- Art. 17.441(d), CCP

In order to be effective,  
IID installation and reports should be  
monitored



The magistrate may designate an  
appropriate agency to verify the  
installation of the device and to  
monitor the device.

Defendant must pay  
a fee to the agency

Magistrate shall set  
fee, not to exceed  
\$10 as determined  
by the county  
auditor  
/commissioners  
court

# Monitoring Agencies

(Note: Interlock providers like SmartStart, Guardian, and LifeSafer are not monitoring agencies, but provide reports to the monitoring agencies)

## Probation department (C.S.C.D.)

- GC 76.015 says \$25-60/month can be charged to someone who receives services.
- This statute might allow CSCD to directly charge the defendant \$25-60/month, but a fee ordered by a magistrate should not exceed \$10 (see previous slide).

## County Attorney's Office

## District Attorney's Office

## County Sheriff's Office

## Court w/ jurisdiction over defendant

# Responsibility for monitoring or modifying bond conditions

When formal charges are filed in a trial court, responsibility for monitoring and modifying bond conditions shifts from the magistrate who originally set the conditions to the judge of the trial court.

EXAMPLE:

A magistrate requires the defendant to install an IID within 30 days. Formal charges are filed in the trial court 20 days later. It is the trial court's responsibility to monitor/enforce this bond condition.

EXAMPLE:

A magistrate does not require the defendant to install an IID as a condition of bond following an arrest for a first time DWI. After formal charges are filed, the trial court judge may add this bond condition.

# Violation of Bond Condition

What happens if you learn that the IID condition has been violated?

- ▶ Bond revocation hearing may be held
  - ▶ by magistrate if formal charging instrument not yet filed
  - ▶ by trial court judge if formal charging instrument has been filed


-- Art. 17.09, Sec. 3, CCP; 17.40

# Upon Conviction of Certain Offenses

PC 49.09(h)

## When & How Long?

Defendant convicted of a second or subsequent offense within 5 years relating to operation of a motor vehicle while intoxicated?



Trial court must require defendant to install IID by end date of license suspension under TC 521.344 and keep installed for one year

# Installation

- ▶ At the defendant's own cost
  - ▶ If the court determines the offender is unable to pay for the device, the court may impose a reasonable payment schedule not to extend beyond the first anniversary of the date of installation
- ▶ Defendant must provide evidence of installation on or before date license suspension ends



# Monitoring

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CSCD may operate programs to provide supervision/verification of compliance

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May charge \$25-60 per month to someone who “receives services”

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-- Government Code 76.011, 76.015

# Enforcement

- ▶ Failure to comply = punishable by contempt.
- ▶ For purposes of enforcement, court that enters an order under 49.09(h) retains jurisdiction over the defendant until the date on which the device is no longer required



# Community Supervision Condition (CCP 42A)

CCP 42A.407 & 42A.408

When a defendant is convicted  
of an offense under PC 49.04-  
49.08 and is placed on  
community supervision by trial  
court judge

## Conflict with PC 49.09(h)

If there is a conflict  
between the provisions  
we just discussed from  
PC 49.09(h) and the  
provisions we're about to  
discuss from CCP 42A

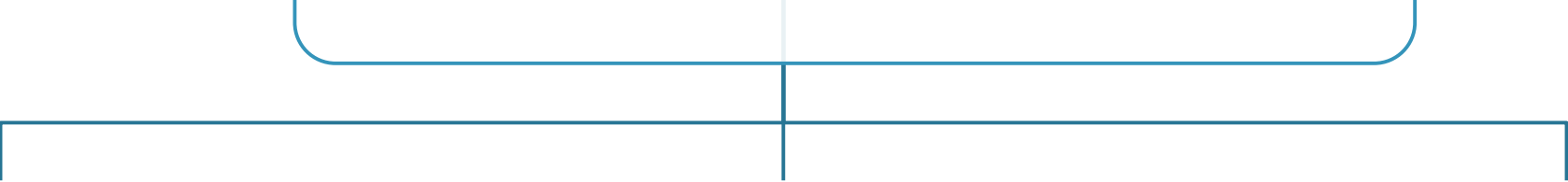
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PC 49.09(h) controls

# Judge Must Order IID Condition

-- CCP 42A.408(c-e)

If placed on community supervision  
after conviction of an offense under  
PC 49.04-49.08 AND at least one of  
the following is true:



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graph TD; A["If placed on community supervision after conviction of an offense under PC 49.04-49.08 AND at least one of the following is true:"] --> B["BAC was 0.15 or more"]; A --> C["One or more previous convictions under PC 49.04-49.08 within the past 10 years"]; A --> D["Defendant was under 21 at the time of the offense"];
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BAC was 0.15 or  
more

One or more  
previous  
convictions under  
PC 49.04-49.08  
within the past 10  
years

Defendant was  
under 21 at the  
time of the offense

# Judge May Order IID Condition

If placed on community supervision after conviction of an offense under PC 49.04-49.08

-- CCP 42A.408(b)

# Defendant May Elect to Have IID Condition

- ▶ A defendant who is placed on community supervision and whose license is suspended for a conviction under PC 49.04-49.08, **MAY** operate a motor vehicle during the suspension if the defendant:
  - ▶ obtains and uses an IID as provided by Article 42A.408 for the entire period of the suspension; and
  - ▶ applies for and receives an occupational driver's license with IID under TC 521.2465

-- CCP 42A.407(g)



# EMPLOYMENT EXEMPTION

*Notwithstanding  
any other provision  
of Subchapter I of  
Ch. 42A*

-- CCP 42A.408(h)

Defendant may  
operate a vehicle  
without the IID if

**NOTE:** This exemption  
does not apply if the  
business entity that  
owns the vehicle is  
owned or controlled by  
the defendant

Defendant is  
required to operate  
a vehicle in course  
and scope of their  
employment,

The vehicle is owned  
by the employer, AND

The employer has been  
notified of the driving  
privilege restriction and  
proof of notification is  
kept with the vehicle

# Installation & Duration

- ▶ At defendant's own cost
    - ▶ If court determines defendant is unable to pay, may impose a reasonable payment schedule not to exceed twice the length of the period of the court's order.
  - ▶ Defendant must provide evidence of installation w/i 30 days of conviction unless court finds it would not be in the best interest of justice & enters findings on the record.
  - ▶ The device must remain installed for not less than 50 % of the supervision period.
- CCP 42A.408(f)

# Occupational Driver's License Restriction

TC Chapter 521, Subchapter L

When a person's license has been suspended and they are asking for an ODL to be able to drive during the suspension


(Request might be made in convicting court or another court depending on the circumstances)

# Automatic Suspension After Conviction

-- TC 521.246

If license was suspended as a result of a conviction under PC 49.04-49.08, court shall impose IID restriction for the duration of the period of suspension

Note: If license was suspended automatically after a conviction, petition must be filed in the convicting court (unless ODL is issued through a drug court program under GC 123.009)



At person's own expense unless court finds that it's not in the best interest of justice & enters finding in the record.  
If the court determines that the person is unable to pay, may impose a reasonable payment schedule for a term not to exceed twice the period of the court's order.

# Company Car Exception

A person convicted of a DWI offense who is required to have an IID may operate a vehicle without the IID if:

- ▶ He is required to operate a vehicle for work
- ▶ The vehicle is owned by the employer
- ▶ The employer is not owned or controlled by the restricted person
- ▶ The employer is notified of the restriction, and
- ▶ Proof of the notification is with the vehicle



-- TC 521.246

Must also include IID restriction in ODL order if another court order already exists requiring IID

Bond Condition

*Example:* IID Bond condition imposed after DWI arrest and defendant is seeking an ODL pending trial.

Order under PC 49.09(h)

*Example:* IID required after DWI conviction suspension has ended and then license is suspended again for failure to pay surcharges.

Condition of Community Supervision or Installed IID Under 42A.407(g)

*Example:* License wasn't suspended as a result of a DWI conviction when defendant was put on community supervision, IID condition is in place, and now defendant has been suspended for failure to pay surcharges.

*Example:* License was suspended and defendant installed IID and applied for ODL

Can you impose  
an IID  
restriction if  
there is no  
applicable  
conviction or  
court order?

No. A court can not choose to order an IID as a condition of an ODL over the applicant's objection when not authorized by a specific law

*Deleon v. State*, 284 S.W.3d 894  
(Tex. App.—Dallas 2009, no pet.)



What if an IID should have been required as a bond condition but was not?

- ▶ Can't just put it on the ODL
- ▶ The magistrate who ordered the bond conditions or the trial court with jurisdiction would have to modify the conditions to add the requirement

What if the applicant says they will voluntarily install an IID and asks the court to order it in the ODL?

If no order already exists, a court may order IID restriction IF:

Suspension is under Ch. 524 (BAC .08 or higher) or CH. 724 (refusal to test); AND

Applicant voluntarily submits proof that IID has been installed on every vehicle they own or operate

Transp. Code § 521.251(d-1); *Deleon v. State*, 284 S.W.3d 894 (Tex. App.—Dallas 2009, no pet.)

# Effects of IID Restriction on Other Parts of ODL Order

Don't have to  
show essential  
need


- If convicted of an offense under PC 49.04 - 49.08,
- Show evidence of financial responsibility; and
- Submit proof that IID is installed

May not be subject to  
any time of travel,  
reason for travel, or  
location of travel  
restrictions.

No effective date  
delays even if  
there otherwise  
would be

- If submit proof that IID is installed

# Monitoring - Court of Record


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- ▶ If the person has submitted proof of IID installation, only a court of record may order the person to:
    - ▶ Submit to supervision by the local Community Supervision and Correction Department to verify compliance; and
    - ▶ Pay the monthly administrative fee (\$25 - \$60) authorized by Govt. Code § 76.015
  - ▶ May order supervision to continue until the end of the suspension period
  - ▶ May modify or terminate the supervision for good cause

--TC 521.2462

# Monitoring – Not Court of Record

--TC 521.251(d-1)

May not order community supervision when person has submitted proof of IID installation



But may require person to report to the court that issued the ODL to confirm compliance

# Revocation of Order

- ▶ The court that signs an order granting an occupational license may issue an order revoking the license at any time for good cause (must send certified copy to DPS)
- ▶ If a person fails to maintain their IID, the court shall revoke the ODL
- ▶ Class B misdemeanor if operate a motor vehicle in violation of a restriction
  - ▶ On conviction, ODL and order granting ODL are revoked (but still have to tell DPS to revoke it)

-- TC 521.251(d-1), 521.252, 521.253



# Questions?