

BILL ANALYSIS

C.S.H.B. 1634
By: Hilderbran
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current case law requires the state to “exercise due diligence” to apprehend a defendant for violating his probation. As the law stands now, the defendant is rewarded for not complying with the terms and conditions of his probation by absconding. The state is penalized if it does not continually, until the defendant is apprehended, make efforts to locate the absconder. The defendant, who has been given a second chance by being placed on probation, should have the responsibility to comply with all terms and conditions of probation and not be rewarded with a dismissal of the state’s motion to revoke probation when he absconds.

C.S.H.B. 1634 ensures the ability of a court to maintain jurisdiction over a person who absconds while on probation.

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. 1634 amends the Code of Criminal Procedure by adding provisions enabling courts to conduct hearings on probation violations after the probation term has expired, provided that the state has timely filed a motion to revoke, caused a warrant to be issued, and made an effort to serve the warrant on the probationer. This provision applies to individuals being supervised on both deferred adjudication and standard probation.

C.S.H.B. 1634 also states that a supervision officer, peace officer, or other officer with the power of arrest under a warrant satisfies a due diligence requirement if, not earlier than the 45th day before the date a motion to adjudicate or a motion to revoke is filed or not later than the 45th day after the date the motion is filed, the officer contacts or attempts to contact the defendant by either mail or phone.

C.S.H.B. 1634 provides that once this Act becomes law, it will apply to hearings that begin on or after the effective date of this Act, regardless if the defendant was placed on probation, on, or after the effective date of this Act.

EFFECTIVE DATE

On passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original bill by adding the due diligence provisions.