

By: Hilderbran, Denny

H.B. No. 1634

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the ability of a court to maintain jurisdiction over a
3 person placed on community supervision who absconds.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 5, Article 42.12, Code of Criminal
6 Procedure, is amended by adding Subsection (h) to read as follows:

7 (h) A court retains jurisdiction to hold a hearing under
8 Subsection (b) and to proceed with an adjudication of guilt,
9 regardless of whether the period of community supervision imposed
10 on the defendant has expired, if before the expiration the attorney
11 representing the state files a motion to proceed with the
12 adjudication and a capias is issued for the arrest of the defendant.

13 SECTION 2. Section 21, Article 42.12, Code of Criminal
14 Procedure, is amended by adding Subsection (e) to read as follows:

15 (e) A court retains jurisdiction to hold a hearing under
16 Subsection (b) and to revoke, continue, or modify community
17 supervision, regardless of whether the period of community
18 supervision imposed on the defendant has expired, if before the
19 expiration the attorney representing the state files a motion to
20 revoke, continue, or modify community supervision and a capias is
21 issued for the arrest of the defendant.

22 SECTION 3. Article 42.12, Code of Criminal Procedure, is
23 amended by adding Section 24 to read as follows:

24 Sec. 24. DUE DILIGENCE. For the purposes of a hearing under

1 Section 5(b) or 21(b), a supervision officer, peace officer, or
2 other officer with the power of arrest under a warrant issued by a
3 judge on the violation of a condition of community supervision
4 satisfies a due diligence requirement if, not earlier than the 45th
5 day before the date a motion to adjudicate or a motion to revoke is
6 filed or not later than the 45th day after the date the motion is
7 filed, the officer contacts or attempts to contact the defendant:

8 (1) by United States mail directed to the defendant
9 at, as reflected in the files of the department serving the county
10 in which the order of community supervision was entered, the
11 defendant's last known residence address or last known employment
12 address; or

13 (2) by telephone at, as reflected by the files of the
14 department serving the county in which the order of community
15 supervision was entered, the defendant's last known residence
16 telephone number.

17 SECTION 4. The change in law made by this Act applies to a
18 hearing under Article 42.12, Code of Criminal Procedure, as amended
19 by this Act, that commences on or after the effective date of this
20 Act, regardless of whether the defendant was placed on community
21 supervision before, on, or after the effective date of this Act.

22 SECTION 5. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2003.