

AN ACT

relating to the ability of a court to maintain jurisdiction over a person placed on community supervision who absconds and to defenses to revocation of community supervision.

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

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

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

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

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

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

1 Sec. 24. DUE DILIGENCE DEFENSE. For the purposes of a
2 hearing under Section 5(b) or 21(b), it is an affirmative defense to
3 revocation for an alleged failure to report to a supervision
4 officer as directed or to remain within a specified place that a
5 supervision officer, peace officer, or other officer with the power
6 of arrest under a warrant issued by a judge for that alleged
7 violation failed to contact or attempt to contact the defendant in
8 person at the defendant's last known residence address or last
9 known employment address, as reflected in the files of the
10 department serving the county in which the order of community
11 supervision was entered.

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

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

President of the Senate

Speaker of the House

I certify that H.B. No. 1634 was passed by the House on April 30, 2003, by the following vote: Yeas 138, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1634 on May 30, 2003, by the following vote: Yeas 138, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1634 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor