

1-1 By: Hilderbran, Denny (Senate Sponsor - Staples) H.B. No. 1634
1-2 (In the Senate - Received from the House May 1, 2003;
1-3 May 6, 2003, read first time and referred to Committee on Criminal
1-4 Justice; May 22, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 22, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1634 By: Whitmire

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the ability of a court to maintain jurisdiction over a
1-11 person placed on community supervision who absconds and to defenses
1-12 to revocation of community supervision.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 5, Article 42.12, Code of Criminal
1-15 Procedure, is amended by adding Subsection (h) to read as follows:

1-16 (h) A court retains jurisdiction to hold a hearing under
1-17 Subsection (b) and to proceed with an adjudication of guilt,
1-18 regardless of whether the period of community supervision imposed
1-19 on the defendant has expired, if before the expiration the attorney
1-20 representing the state files a motion to proceed with the
1-21 adjudication and a capias is issued for the arrest of the defendant.

1-22 SECTION 2. Section 21, Article 42.12, Code of Criminal
1-23 Procedure, is amended by adding Subsection (e) to read as follows:

1-24 (e) A court retains jurisdiction to hold a hearing under
1-25 Subsection (b) and to revoke, continue, or modify community
1-26 supervision, regardless of whether the period of community
1-27 supervision imposed on the defendant has expired, if before the
1-28 expiration the attorney representing the state files a motion to
1-29 revoke, continue, or modify community supervision and a capias is
1-30 issued for the arrest of the defendant.

1-31 SECTION 3. Article 42.12, Code of Criminal Procedure, is
1-32 amended by adding Section 24 to read as follows:

1-33 Sec. 24. DUE DILIGENCE DEFENSE. For the purposes of a
1-34 hearing under Section 5(b) or 21(b), it is an affirmative defense to
1-35 revocation for an alleged failure to report to a supervision
1-36 officer as directed or to remain within a specified place that a
1-37 supervision officer, peace officer, or other officer with the power
1-38 of arrest under a warrant issued by a judge for that alleged
1-39 violation failed to contact or attempt to contact the defendant in
1-40 person at the defendant's last known residence address or last
1-41 known employment address, as reflected in the files of the
1-42 department serving the county in which the order of community
1-43 supervision was entered.

1-44 SECTION 4. The change in law made by this Act applies to a
1-45 hearing under Article 42.12, Code of Criminal Procedure, as amended
1-46 by this Act, that commences on or after the effective date of this
1-47 Act, regardless of whether the defendant was placed on community
1-48 supervision before, on, or after the effective date of this Act.

1-49 SECTION 5. This Act takes effect immediately if it receives
1-50 a vote of two-thirds of all the members elected to each house, as
1-51 provided by Section 39, Article III, Texas Constitution. If this
1-52 Act does not receive the vote necessary for immediate effect, this
1-53 Act takes effect September 1, 2003.

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