

## **BILL ANALYSIS**

S.B. 358  
By: Hinojosa  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Current law allows judges to grant community supervision, commonly known as probation, to criminal defendants in certain circumstances. As a condition of probation, these defendants are often required to submit to regular polygraph testing in which they are asked about the other conditions of the probation. For example, an individual may be asked whether the individual has left the state in the past 30 days or failed any drug tests. Interested parties report that some prosecutors will initiate proceedings to revoke probation if the polygraph test indicates that the individual may be lying. The parties note, however, that polygraph testing is the subject of much debate and that American courts are almost unanimous in refusing to admit polygraph results as evidence in court. S.B. 358 seeks to bolster court opinions regarding this issue and to codify a prohibition against Texas judges proceeding with an adjudication of guilt for a defendant placed on deferred adjudication community supervision, and against a parole panel revoking parole of a releasee, solely on the basis of polygraph testing results.

### **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**

S.B. 358 amends the Code of Criminal Procedure to prohibit a court from proceeding with an adjudication of guilt on the original charge for a defendant who has been placed on deferred adjudication community supervision and allegedly violated a condition of the supervision if the court finds that the only evidence supporting the alleged violation of a condition of community supervision is an uncorroborated polygraph statement. The bill prohibits a court from revoking the community supervision of a defendant if, at the community supervision revocation hearing, the court finds that the only evidence supporting the alleged violation of a condition of community supervision is an uncorroborated polygraph statement.

S.B. 358 amends the Government Code to prohibit a parole panel or designated agent of the Board of Pardons and Paroles from revoking the parole or mandatory supervision of a releasee if the parole panel or designated agent finds that the only evidence supporting the alleged violation of a condition of release is an uncorroborated polygraph statement.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.