

1-1 By: Hinojosa S.B. No. 358
1-2 (In the Senate - Filed February 4, 2013; February 11, 2013,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 18, 2013, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; March 18, 2013,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Huffman	X		
1-11	Carona		X	
1-12	Hinojosa	X		
1-13	Patrick	X		
1-14	Rodriguez	X		
1-15	Schwertner	X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 358 By: Hinojosa

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the use of a polygraph statement as evidence that a
1-20 defendant or releasee from the Texas Department of Criminal Justice
1-21 has violated a condition of release.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Subsection (b), Section 5, Article 42.12, Code
1-24 of Criminal Procedure, is amended to read as follows:

1-25 (b) On violation of a condition of community supervision
1-26 imposed under Subsection (a) [~~of this section~~], the defendant may
1-27 be arrested and detained as provided in Section 21 [~~of this~~
1-28 ~~article~~]. The defendant is entitled to a hearing limited to the
1-29 determination by the court of whether it proceeds with an
1-30 adjudication of guilt on the original charge. The court may not
1-31 proceed with an adjudication of guilt on the original charge if the
1-32 court finds that the only evidence supporting the alleged violation
1-33 of a condition of community supervision is an uncorroborated
1-34 polygraph statement. The [This] determination to proceed with an
1-35 adjudication of guilt on the original charge is reviewable in the
1-36 same manner as a revocation hearing conducted under Section 21 [~~of~~
1-37 this article] in a case in which an adjudication of guilt had not
1-38 been deferred. After an adjudication of guilt, all proceedings,
1-39 including assessment of punishment, pronouncement of sentence,
1-40 granting of community supervision, and defendant's appeal continue
1-41 as if the adjudication of guilt had not been deferred. A court
1-42 assessing punishment after an adjudication of guilt of a defendant
1-43 charged with a state jail felony may suspend the imposition of the
1-44 sentence and place the defendant on community supervision or may
1-45 order the sentence to be executed, regardless of whether the
1-46 defendant has previously been convicted of a felony.

1-47 SECTION 2. Subsection (c), Section 21, Article 42.12, Code
1-48 of Criminal Procedure, is amended to read as follows:

1-49 (c) The court may not revoke the community supervision of a
1-50 defendant if, at the community supervision revocation hearing, the
1-51 court finds that the only evidence supporting the alleged violation
1-52 of a condition of community supervision is an uncorroborated
1-53 polygraph statement. In a community supervision revocation hearing
1-54 at which it is alleged only that the defendant violated the
1-55 conditions of community supervision by failing to pay compensation
1-56 paid to appointed counsel, community supervision fees, or court
1-57 costs, the state must prove by a preponderance of the evidence that
1-58 the defendant was able to pay and did not pay as ordered by the
1-59 judge. The court may order a community supervision and corrections
1-60 department to obtain information pertaining to the factors listed

2-1 under Article 42.037(h) [~~of this code~~] and include that information
2-2 in the report required under Section 9(a) [~~of this article~~] or a
2-3 separate report, as the court directs.

2-4 SECTION 3. Section 508.281, Government Code, is amended by
2-5 adding Subsection (e) to read as follows:

2-6 (e) A parole panel or designated agent of the board may not
2-7 revoke the parole or mandatory supervision of a releasee if the
2-8 parole panel or designated agent finds that the only evidence
2-9 supporting the alleged violation of a condition of release is an
2-10 uncorroborated polygraph statement.

2-11 SECTION 4. The change in law made by this Act applies to a
2-12 hearing held under Section 5 or 21, Article 42.12, Code of Criminal
2-13 Procedure, or Section 508.281, Government Code, on or after the
2-14 effective date of this Act.

2-15 SECTION 5. This Act takes effect immediately if it receives
2-16 a vote of two-thirds of all the members elected to each house, as
2-17 provided by Section 39, Article III, Texas Constitution. If this
2-18 Act does not receive the vote necessary for immediate effect, this
2-19 Act takes effect September 1, 2013.

2-20 * * * * *