By:  Stephenson H.B. No. 4375

A BILL TO BE ENTITLED

AN ACT

relating to authorizing the use of anti-theft electronic monitoring as a condition of community supervision or release on bond.

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

SECTION 1.  Articles 17.44(a), (b), (c), and (e), Code of Criminal Procedure, are amended to read as follows:

(a)  A magistrate may require as a condition of release on bond that the defendant submit to:

(1)  home confinement and electronic monitoring under the supervision of an agency designated by the magistrate; [~~or~~]

(2)  anti-theft electronic monitoring if the defendant is charged with an offense under Section 31.03 or 31.16, Penal Code; or

(3)  testing on a weekly basis for the presence of a controlled substance in the defendant's body.

(b)  In this article:

(1)  "Anti-theft electronic monitoring" means an electronic monitoring system that:

(A)  uses a device that is worn or carried by a defendant subject to the electronic monitoring system;

(B)  works in conjunction with retail security technology used in retail stores; and

(C)  is capable of notifying a retail store's security personnel and the monitoring entity when a person subject to monitoring enters the store.

(2)  "Controlled [~~, "controlled~~] substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(c)  The magistrate may revoke the bond and order the defendant arrested if the defendant:

(1)  violates a condition of:

(A)  home confinement and electronic monitoring; or

(B)  anti-theft electronic monitoring;

(2)  refuses to submit to a test for controlled substances or submits to a test for controlled substances and the test indicates the presence of a controlled substance in the defendant's body; or

(3)  fails to pay the costs of monitoring or testing for controlled substances, if payment is ordered under Subsection (e) as a condition of bond and the magistrate determines that the defendant is not indigent and is financially able to make the payments as ordered.

(e)  The cost of electronic monitoring, including anti-theft electronic monitoring, or testing for controlled substances under this article may be assessed as court costs or ordered paid directly by the defendant as a condition of bond.

SECTION 2.  Article 42A.301(b), Code of Criminal Procedure, is amended to read as follows:

(b)  Conditions of community supervision may include conditions requiring the defendant to:

(1)  commit no offense against the laws of this state or of any other state or of the United States;

(2)  avoid injurious or vicious habits;

(3)  avoid persons or places of disreputable or harmful character, including any person, other than a family member of the defendant, who is an active member of a criminal street gang;

(4)  report to the supervision officer as directed by the judge or supervision officer and obey all rules and regulations of the community supervision and corrections department;

(5)  permit the supervision officer to visit the defendant at the defendant's home or elsewhere;

(6)  work faithfully at suitable employment to the extent possible;

(7)  remain within a specified place;

(8)  pay in one or more amounts:

(A)  the defendant's fine, if one is assessed; and

(B)  all court costs, regardless of whether a fine is assessed;

(9)  support the defendant's dependents;

(10)  participate, for a period specified by the judge, in any community-based program, including a community service project under Article 42A.304;

(11)  if the judge determines that the defendant has financial resources that enable the defendant to offset in part or in whole the costs of the legal services provided to the defendant in accordance with Article 1.051(c) or (d), including any expenses and costs, reimburse the county in which the prosecution was instituted for the costs of the legal services in an amount that the judge finds the defendant is able to pay, except that the defendant may not be ordered to pay an amount that exceeds:

(A)  the actual costs, including any expenses and costs, paid by the county for the legal services provided by an appointed attorney; or

(B)  if the defendant was represented by a public defender's office, the actual amount, including any expenses and costs, that would have otherwise been paid to an appointed attorney had the county not had a public defender's office;

(12)  if under custodial supervision in a community corrections facility:

(A)  remain under that supervision;

(B)  obey all rules and regulations of the facility; and

(C)  pay a percentage of the defendant's income to:

(i)  the facility for room and board; and

(ii)  the defendant's dependents for their support during the period of custodial supervision;

(13)  submit to testing for alcohol or controlled substances;

(14)  attend counseling sessions for substance abusers or participate in substance abuse treatment services in a program or facility approved or licensed by the Department of State Health Services;

(15)  with the consent of the victim of a misdemeanor offense or of any offense under Title 7, Penal Code, participate in victim-defendant mediation;

(16)  submit to electronic monitoring, other than anti-theft electronic monitoring as required under Subdivision (24);

(17)  reimburse the compensation to victims of crime fund for any amounts paid from that fund to or on behalf of a victim, as defined by Article 56.32, of the offense or if no reimbursement is required, make one payment to the compensation to victims of crime fund in an amount not to exceed $50 if the offense is a misdemeanor or not to exceed $100 if the offense is a felony;

(18)  reimburse a law enforcement agency for the analysis, storage, or disposal of raw materials, controlled substances, chemical precursors, drug paraphernalia, or other materials seized in connection with the offense;

(19)  pay all or part of the reasonable and necessary costs incurred by the victim for psychological counseling made necessary by the offense or for counseling and education relating to acquired immune deficiency syndrome or human immunodeficiency virus made necessary by the offense;

(20)  make one payment in an amount not to exceed $50 to a crime stoppers organization, as defined by Section 414.001, Government Code, and as certified by the Texas Crime Stoppers Council;

(21)  submit a DNA sample to the Department of Public Safety under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant;

(22)  in any manner required by the judge, provide in the county in which the offense was committed public notice of the offense for which the defendant was placed on community supervision; [~~and~~]

(23)  reimburse the county in which the prosecution was instituted for compensation paid to any interpreter in the case; and

(24)  submit to anti-theft electronic monitoring, as defined by Article 17.44, if the defendant is placed on community supervision for an offense under Section 31.03 or 31.16, Penal Code.

SECTION 3.  (a) Article 17.44, Code of Criminal Procedure, as amended by this Act, applies only to a person who is released on bond following an arrest for an offense committed on or after the effective date of this Act. A person released on bond following an arrest for an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

(b)  Article 42A.301(b), Code of Criminal Procedure, as amended by this Act, applies only to a person who is placed on community supervision for an offense committed on or after the effective date of this Act. A person who is placed on community supervision for an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

(c)  For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4.  This Act takes effect September 1, 2019.