

By: Canales

H.B. No. 173

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the release on bail of a defendant arrested following a
3 violation of a condition of community supervision.

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

5 SECTION 1. Article 42A.751, Code of Criminal Procedure, is
6 amended by amending Subsections (c) and (d) and adding Subsection
7 (c-1) to read as follows:

8 (c) Without any unnecessary delay, but not later than 48
9 hours after the defendant is arrested, the arresting officer or the
10 person with custody of the defendant shall take the defendant
11 before the judge who ordered the arrest for the alleged violation of
12 a condition of community supervision or, if the judge is
13 unavailable, before a magistrate of the county in which the
14 defendant was arrested. The judge or magistrate shall perform all
15 appropriate duties and may exercise all appropriate powers as
16 provided by Article 15.17 with respect to an arrest for a new
17 offense. Except as provided by Subsection (c-1), ~~[except that]~~
18 only the judge who ordered the arrest for the alleged violation may
19 authorize the defendant's release on bail. The defendant may be
20 taken before the judge or magistrate under this subsection by means
21 of an electronic broadcast system as provided by and subject to the
22 requirements of Article 15.17.

23 (c-1) Any magistrate in the county in which a defendant is
24 arrested for an alleged violation of a condition of community

1 supervision may release the defendant on bail if:

2 (1) the defendant is on community supervision for an
3 offense punishable as a misdemeanor;

4 (2) the alleged violation of community supervision for
5 which the arrest is ordered involves only conduct constituting the
6 commission of a nonviolent offense that is punishable as a
7 misdemeanor; and

8 (3) the defendant is arrested in the same county in
9 which the defendant is under community supervision.

10 (d) If the defendant has not been released on bail as
11 permitted under this article [~~Subsection (c)~~], on motion by the
12 defendant, the judge who ordered the arrest for the alleged
13 violation of a condition of community supervision shall cause the
14 defendant to be brought before the judge for a hearing on the
15 alleged violation within 20 days of the date the motion is filed.
16 After a hearing without a jury, the judge may continue, extend,
17 modify, or revoke the community supervision.

18 SECTION 2. The change in law made by this Act applies only
19 to a person who is arrested on or after the effective date of this
20 Act. A person arrested before the effective date of this Act is
21 governed by the law in effect on the date the person was arrested,
22 and the former law is continued in effect for that purpose.

23 SECTION 3. This Act takes effect September 1, 2019.