

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

1 to monitoring enters the store.

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

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

6 (1) violates a condition of:

7 (A) home confinement and electronic monitoring;

8 or

9 (B) anti-theft electronic monitoring;

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

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

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

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

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

27 (1) commit no offense against the laws of this state or

- 1 of any other state or of the United States;
- 2 (2) avoid injurious or vicious habits;
- 3 (3) avoid persons or places of disreputable or harmful
4 character, including any person, other than a family member of the
5 defendant, who is an active member of a criminal street gang;
- 6 (4) report to the supervision officer as directed by
7 the judge or supervision officer and obey all rules and regulations
8 of the community supervision and corrections department;
- 9 (5) permit the supervision officer to visit the
10 defendant at the defendant's home or elsewhere;
- 11 (6) work faithfully at suitable employment to the
12 extent possible;
- 13 (7) remain within a specified place;
- 14 (8) pay in one or more amounts:
- 15 (A) the defendant's fine, if one is assessed; and
16 (B) all court costs, regardless of whether a fine
17 is assessed;
- 18 (9) support the defendant's dependents;
- 19 (10) participate, for a period specified by the judge,
20 in any community-based program, including a community service
21 project under Article [42A.304](#);
- 22 (11) if the judge determines that the defendant has
23 financial resources that enable the defendant to offset in part or
24 in whole the costs of the legal services provided to the defendant
25 in accordance with Article [1.051](#)(c) or (d), including any expenses
26 and costs, reimburse the county in which the prosecution was
27 instituted for the costs of the legal services in an amount that the

1 judge finds the defendant is able to pay, except that the defendant
2 may not be ordered to pay an amount that exceeds:

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

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

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

12 (A) remain under that supervision;

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

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

17 (i) the facility for room and board; and

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

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

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

26 (15) with the consent of the victim of a misdemeanor
27 offense or of any offense under Title 7, Penal Code, participate in

1 victim-defendant mediation;

2 (16) submit to electronic monitoring, other than
3 anti-theft electronic monitoring as required under Subdivision
4 (24);

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

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

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

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

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

27 (22) in any manner required by the judge, provide in

1 the county in which the offense was committed public notice of the
2 offense for which the defendant was placed on community
3 supervision; ~~and~~

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

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

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

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

27 (c) For purposes of this section, an offense was committed

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1 before the effective date of this Act if any element of the offense
2 occurred before that date.

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