87R783 MAW-D

By:  Sherman, Sr. H.B. No. 358

A BILL TO BE ENTITLED

AN ACT

relating to certain technical violations of conditions of community supervision.

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

SECTION 1.  Subchapter P, Chapter 42A, Code of Criminal Procedure, is amended by adding Article 42A.7555 to read as follows:

Art. 42A.7555.  PROCEDURES APPLICABLE TO CERTAIN TECHNICAL VIOLATIONS. (a) This article applies to any violation of a condition of community supervision by a defendant on community supervision for an offense that is punishable as a state jail felony or a felony of the third degree, other than:

(1)  a violation committed by a defendant who:

(A)  in the five years preceding the date of the violation, was convicted of:

(i)  a felony offense listed in Article 42A.054(a) or for which the judgment contains an affirmative finding under Article 42A.054(c) or (d); or

(ii)  a sexually violent offense as defined by Article 62.001; or

(B)  has previously had the defendant's community supervision revoked; or

(2)  a violation that involves:

(A)  being arrested for, charged with, or convicted of an offense:

(i)  punishable as a felony;

(ii)  under Title 5, Penal Code, that is punishable as a misdemeanor; or

(iii)  involving the possession of a firearm or any prohibited weapon;

(B)  contacting the victim of the offense for which the defendant was placed on community supervision;

(C)  failing to register as a sex offender under Chapter 62 if required as a condition of community supervision;

(D)  committing family violence, as defined by Section 71.004, Family Code;

(E)  failing to report to a supervision officer as directed for 30 days or more if a supervision officer, peace officer, or other officer directed by the court attempted to contact the defendant in person at the defendant's last known residence or employment address; or

(F)  leaving the state without permission.

(b)  Notwithstanding any other provision of this chapter, if after a hearing under Article 42A.751(d) the judge determines the defendant violated not more than three conditions of community supervision to which this article applies and no other condition, the judge may not revoke the defendant's community supervision but may continue, extend, or modify the community supervision, other than a modification that requires the defendant to serve a term of confinement based on the violation.

(c)  Except as provided by Subsection (e), this article does not limit the authority of a judge to revoke a defendant's community supervision or to impose a term of confinement if the defendant violates four or more conditions of community supervision to which this article applies, except that before the defendant may be required to serve a term of confinement in a facility other than a community corrections facility as defined by Article 42A.601 or a substance abuse felony punishment facility operated by the Texas Department of Criminal Justice under Section 493.009, Government Code, the judge must:

(1)  exhaust all alternatives to incarceration;

(2)  follow the continuum of care for a defendant who requires inpatient treatment for substance abuse, if applicable; and

(3)  determine that the defendant is an imminent threat to the public.

(d)  If the judge imposes confinement described by Subsection (c) as a condition of community supervision, the judge may impose any other condition the judge determines appropriate to be effective after the defendant completes the term of confinement.

(e)  Notwithstanding any other provision of this article, if the judge determines that the defendant has only violated one or more conditions of community supervision related to failing to timely pay a fee or arriving late to a scheduled meeting with the defendant's supervision officer, the judge may not revoke the defendant's community supervision. This subsection does not affect the defendant's obligation to pay any fees as required as a condition of community supervision.

SECTION 2.  Article 42A.7555, Code of Criminal Procedure, as added by this Act, applies to a person on community supervision on or after the effective date of this Act, regardless of whether the person was placed on community supervision before, on, or after the effective date of this Act.

SECTION 3.  This Act takes effect September 1, 2021.