

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

1 convicted of an offense:

2 (i) punishable as a felony;

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

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

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

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

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

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

18 (F) leaving the state without permission.

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

27 (c) Except as provided by Subsection (e), this article does

1 not limit the authority of a judge to revoke a defendant's community
2 supervision or to impose a term of confinement if the defendant
3 violates four or more conditions of community supervision to which
4 this article applies, except that before the defendant may be
5 required to serve a term of confinement in a facility other than a
6 community corrections facility as defined by Article 42A.601 or a
7 substance abuse felony punishment facility operated by the Texas
8 Department of Criminal Justice under Section 493.009, Government
9 Code, the judge must:

10 (1) exhaust all alternatives to incarceration;
11 (2) follow the continuum of care for a defendant who
12 requires inpatient treatment for substance abuse, if applicable;
13 and

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

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

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

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

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