

BILL ANALYSIS

Senate Research Center
84R2471 MAW-F

H.B. 518
By: Moody (Rodriguez)
Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, an incarcerated probationer who wishes to waive a hearing on a motion to revoke or adjudicate has to be brought before a court of record and sign the waiver in person. This requirement creates transportation and administrative costs. Those costs are particularly high where a defendant on probation absconds and then is convicted and incarcerated in a different jurisdiction. In such cases, the probationer has no defense to the revocation of his probation, so waiving the hearing is a sensible, efficient step. It makes little sense to require transporting him back to the original jurisdiction in order to do so.

H.B. 518 amends Article 42.12 of the Code of Criminal Procedure to allow defendants to make the same written waiver before a notary public. Because the institutions in which they are incarcerated will have notaries, this change will streamline the waiver process. This change would have no effect on defendants' rights under current law. They would still have the right to an in-person hearing on the motion to adjudicate or motion to revoke. Consequently, the notary procedure that H.B. 518 creates seeks to protect defendants' rights while improving efficiency and conserving county resources.

H.B. 518 amends current law relating to certain waivers by a defendant regarding a community supervision revocation hearing.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 21(b-2), Article 42.12, Code of Criminal Procedure, as follows:

(b-2) Requires a judge who ordered the arrest for the alleged violation of a condition of community supervision, if the defendant has not been released on bail as permitted under Subsection (b-1), on motion by the defendant, to cause the defendant to be brought before the judge for a hearing on the alleged violation within 20 days of filing of the motion, and after a hearing without a jury, may either continue, extend, modify, or revoke the community supervision. Requires a judge to revoke the community supervision of a defendant who is imprisoned in a penal institution without a hearing if the defendant, in writing before a court of record or a notary public in the jurisdiction where imprisoned, waives the defendant's right to a hearing and to counsel, affirms that the defendant has nothing to say as to why sentence should not be pronounced against the defendant, and requests the judge to revoke community supervision and to pronounce sentence. Makes nonsubstantive changes.

SECTION 2. Effective date: September 1, 2015.