

SUBJECT: Restricting persuasiveness of polygraph statements in certain proceedings

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Herrero, Carter, Burnam, Canales, Hughes, Leach, Moody

2 nays — Schaefer, Toth

SENATE VOTE: On final passage, March 27 — 30-0, on Local and Uncontested Calendar

WITNESSES: For — Travis Leete, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Kay Forth, American Civil Liberties Union of Texas)

Against — None

DIGEST: Under SB 358, if a court found that the only evidence supporting an alleged violation of a condition of community supervision or release was an uncorroborated polygraph statement, the court could not:

- proceed with an adjudication of guilt on the charge for which community supervision was ordered;
- revoke community supervision; or
- revoke parole or mandatory supervision.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013, and would apply only to a hearing held on or after that date.

SUPPORTERS SAY: SB 358 would codify best practices and existing jurisprudence. The longstanding rule in Texas evidence law is that the result of a polygraph is inadmissible. The efficacy and persuasiveness of uncorroborated polygraph test results have been questioned by the Texas Court of Criminal Appeals. Given that probation and community supervision are cost-efficient and effective alternatives to incarceration, it is essential that they be revoked only when revocation is necessary and in the best interests of justice and the community. SB 358 would ensure that courts used an appropriate standard to prevent unnecessary revocation and findings of

guilt based on poor evidence.

The bill would not remove a useful tool from law enforcement or parole officers. The bill only would ensure that polygraph tests were used in an appropriate manner when introduced as evidence in certain administrative hearings. Polygraph tests can be useful in certain circumstances and still would be available to parole and probation officers under the bill.

**OPPONENTS
SAY:**

SB 358 would take away a useful tool from law enforcement and parole officers. Polygraph tests are used as a condition of community supervision in sex offender treatment and can help parole or probation officers determine whether these offenders are complying with the other conditions of their supervision or release.