

**SUBJECT:** Magistrates revoking bonds for failing to pay monitoring, testing costs

**COMMITTEE:** Criminal Jurisprudence — committee substitute recommended

**VOTE:** 8 ayes — Gallego, Fletcher, Kent, Miklos, Moody, Pierson, Vaught, Vo  
0 nays  
1 present not voting — Hodge  
2 absent — Christian, Riddle

**WITNESSES:** For — Carol Oeller, Harris County  
Against — None

**BACKGROUND:** Under Code of Criminal Procedure, art. 17.44, magistrates can require as a condition of release on bond that criminal defendants submit to electronic monitoring and to weekly testing for controlled substances. Magistrates have authority to revoke the bonds and have defendants arrested if they violate conditions of electronic monitoring or refuse to submit to a test for controlled substances or if a test indicates the presence of a controlled substance.

**DIGEST:** CSHB 3615 would authorize magistrates to revoke a bond if a defendant failed to pay the costs of monitoring or testing for controlled substances, and the magistrate determined that the defendant was not indigent and was able to pay the costs. The cost of electronic monitoring or testing for controlled substances could be assessed as court costs or paid directly by the defendant as a condition of bond.  
  
The bill would take effect September 1, 2009.

**SUPPORTERS SAY:** CSHB 3615 is needed to clarify the authority of magistrates to recover monitoring and testing costs from defendants released on cash or surety bonds who are subject to electronic monitoring or drug testing. While Code of Criminal Procedure secs. 17.03 and 17.43, dealing with defendants released on personal bonds, include authorization to recover

monitoring and testing costs, the section of the Code of Criminal Procedure dealing with cash and surety bonds does not. CSHB 3615 would clear up any confusion about whether magistrates in bond cases can recover these costs by explicitly stating the authority. The bill simply would mirror the requirements relating to personal bonds and would resolve any conflicts in interpreting the provisions.

Although magistrates have been recovering monitoring and testing costs from defendants on cash and surety bonds, it would be better to have this authority stated explicitly. In 2008, the Harris County Pretrial Services collected \$527,563 in assessed costs for these services, and the bill would ensure this could continue.

The bill would allow bonds to be revoked for failing to pay for monitoring and testing only if defendants are not indigent and were able to pay.

OPPONENTS  
SAY:

No apparent opposition.

NOTES:

The committee substitute added the provision prohibiting the revocation of the bond for failure to pay for monitoring or testing if a defendant were indigent.

The companion bill, SB 1506 by Whitmire, passed the Senate by 31-0 on May 5 on the Local and Uncontested Calendar.