

**SUBJECT:** Allowing certain waivers by a defendant to be made before a notary public

**COMMITTEE:** Criminal Procedure Reform, Select — favorable, without amendment

**VOTE:** 3 ayes — Riddle, Carter, Moody  
0 nays  
2 absent — Herrero, Parker

**WITNESSES:** For — Roberto Ramos, 34th Judicial District Attorney Jaime Esparza  
(*Registered, but did not testify:* Ballard C. Shapleigh, 34th Judicial District Attorney Jaime Esparza; Steven Tays, Bexar County Criminal District Attorney's Office)  
  
Against — None  
  
On — Allen Place, Texas Criminal Defense Lawyers Association

**BACKGROUND:** Under Code of Criminal Procedure, art. 42.12, sec. 21(b-2) a judge may 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 in the jurisdiction where he or she is imprisoned waives his or her right to a hearing.

**DIGEST:** HB 1067 would allow a defendant to waive the right to a hearing under Code of Criminal Procedure, art. 42.12, sec. 21(b-2) in front of a notary public.  
  
The bill would take effect September 1, 2013.

**SUPPORTERS SAY:** HB 1067 would make waivers in these situations more efficient and cost effective. When a defendant on community supervision is incarcerated, the hearing to revoke the person's community supervision is nothing more than a formality because there is no defense to the revocation of community supervision in his or her situation. Still, to waive this hearing, the defendant must be transported to a court of record to sign the waiver. This is unnecessary and puts an unnecessary burden on the institution in

which the defendant is imprisoned. HB 1067 would ease the process and provide a more efficient alternative by allowing these defendants to waive the hearing in front of a notary public.

**OPPONENTS  
SAY:**

HB 1067 could put defendants at risk of waiving their rights without the proper information. A notary public often does not have legal expertise or knowledge and would have no duty to inform the defendant of his or her rights. By requiring a defendant to go before a court of record to waive his or her rights, that protection is preserved.