

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Baker offered the following:

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3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (6) is added to section 648.387,

6 Florida Statutes, to read:

7 648.387 Primary bail bond agents; duties.--

8 (6)(a)1. A bail bond agent may contract with a vendor of

9 the bail bond agent's choice from among those vendors who

10 register with the clerk of the court to provide electronic

11 monitoring of any person who is released by the court in

12 accordance with chapter 903, subject to court-ordered conditions

13 requiring electronic monitoring.

14 2. A vendor who provides electronic monitoring services

15 shall register with the clerk of the court in each judicial

16 circuit in which the vendor intends to provide such services. At

035861

Amendment No. (for drafter's use only)

17 a minimum, the vendor shall provide the clerk with the name of
18 the vendor, the name of an individual employed by the vendor who
19 is to serve as a contact person for the vendor, the address of
20 the vendor, and the telephone number of the contact person. Each
21 clerk of the court may establish an appropriate fee for
22 registration, not to exceed \$25.

23 (b) A bail bond agent may contract with government
24 entities to provide electronic monitoring services as a
25 condition of bail or bond, independent of bail or bond, or under
26 conditions ordered by the court.

27 (c) Bail bond agents are authorized to assess and collect
28 a reasonable, nonrefundable fee for electronic monitoring
29 services from the person who is subject to electronic
30 monitoring. Failure to make timely payment of such fees
31 constitutes grounds for the agent to remand such person to the
32 court or sheriff. Fees associated with required electronic
33 monitoring services are not considered part of the premium for
34 bail bond and shall be exempt from the provisions of s. 648.26.

35 (d)1. The contracted vendor providing the electronic
36 monitoring services shall furnish a transmitter that meets
37 certification standards approved by the Federal Communications
38 Commission unless otherwise specified by state law. For purposes
39 of providing electronic monitoring in accordance with this
40 section and s. 903.0472, each transmitter shall perform
41 according to the following specifications:

42 a. Operate within a signal range of no less than 65 feet
43 but no greater than 150 feet under normal household conditions.

44 b. Emit a signal at least once every 30 seconds.

035861

Amendment No. (for drafter's use only)

45 c. Possess signal content that identifies the offender and
46 the offender's location.

47 d. Possess an internal power source that provides a
48 minimum of 1 year of normal operation without need for
49 recharging or replacing the power source, as well as signal
50 content that indicates the power status of the transmitter and
51 provides the vendor with notification of whether the power
52 source needs to be recharged or replaced.

53 e. Possess signal content that indicates whether the
54 transmitter has been subjected to tampering or removal.

55 f. Possess encrypted signal content or another feature
56 designed to discourage duplication.

57 g. Be of a design that is shock resistant, water and
58 moisture proof, and capable of reliable function under normal
59 atmospheric and environmental conditions.

60 h. Be capable of wear and use in a manner that does not
61 pose a safety hazard or unduly restrict the activities of the
62 defendant.

63
64 In addition, the transmitter must be capable of being attached
65 to the defendant in a manner that readily reveals any efforts to
66 tamper with or remove the transmitter upon visual inspection.
67 Straps or other mechanisms for attaching the transmitter to the
68 defendant must be either capable of being adjusted to fit a
69 defendant of any size or made available in a variety of sizes.

70 2. The contracted vendor providing the electronic
71 monitoring services shall furnish the bail bondsman with a
72 monitoring unit that meets certification standards approved by

035861

Amendment No. (for drafter's use only)

73 | the Federal Communications Commission unless otherwise specified
74 | by state law. The monitoring unit must be capable of receiving
75 | radio-frequency signals from the transmitter worn by the
76 | defendant and described in subparagraph 1. The monitoring unit
77 | must transmit data concerning the defendant's monitoring status
78 | to a central monitoring system facility. The monitoring unit
79 | must include an internal memory capable of storing data in the
80 | event that communication with the central monitoring system
81 | facility is disrupted or in the event of a power failure. The
82 | monitoring unit must be capable of transmitting data that is
83 | stored by the unit in the event that communication with the
84 | central monitoring system facility is disrupted as soon as
85 | communication is restored. The monitoring unit must not pose any
86 | safety hazard to the defendant or others and must be capable of
87 | reliable function under normal environmental and atmospheric
88 | conditions.

89 | Section 2. Section 903.0472, Florida Statutes, is created
90 | to read:

91 | 903.0472 Electronic monitoring.--

92 | (1) The court may order the defendant to be released from
93 | custody subject to conditions of electronic monitoring, if such
94 | services are provided in its jurisdiction. The court may order
95 | the defendant to pay a reasonable fee for such services as a
96 | condition of pretrial release. The failure of the defendant to
97 | make timely payment of such fees constitutes a violation of
98 | pretrial release and grounds for the defendant to be remanded to
99 | the court or appropriate sheriff.

035861

Amendment No. (for drafter's use only)

100 (2) Any entity that provides electronic monitoring
101 services shall report forthwith any known violation of the
102 defendant's pretrial release conditions to the appropriate
103 court, sheriff, state attorney, and bail agent, if any.

104 (3) A defendant who has been released in accordance with
105 the provisions of this section shall not alter, tamper with,
106 damage, or destroy any electronic monitoring equipment. A person
107 who violates this subsection commits a felony of the third
108 degree, punishable as provided in s. 775.082, s. 775.083, or s.
109 775.084.

110 (4) Nothing in this section shall be construed to limit
111 any other provision of this chapter.

112 Section 3. Section 903.0473, Florida Statutes, is created
113 to read:

114 903.0473 Probation appearance bond.--As a condition of any
115 probation, community control, or any other court-ordered
116 community supervision authorized pursuant to chapter 948, the
117 court may order the posting of a bond to secure the appearance
118 of the defendant at any subsequent court proceeding. The
119 appearance bond shall be filed by a bail agent with the sheriff
120 who shall provide a copy to the clerk of court. Upon 72 hours
121 notice by the Clerk of Court, the bail agent shall produce the
122 person on probation, community control, or other court-ordered
123 community supervision to the court. The bail agent shall
124 surrender to the sheriff a person on probation, community
125 control or court-ordered community supervision upon notice by
126 the probation officer that the person has violated the terms of
127 probation, community control, or court-ordered community

035861

Amendment No. (for drafter's use only)

128 supervision. If the bail agent fails to produce the defendant in
129 the court at the time noticed by the court or the clerk of
130 court, the bond shall be estreated and forfeited according to
131 the procedures set forth in this chapter and chapter 643.
132 Failure to appear shall be the sole grounds for forfeiture and
133 estreatment of the appearance bond. Where not inconsistent with
134 this subsection, this chapter and chapter 648 shall regulate the
135 relationship between the bail agent and probationer.

136 Section 4. Paragraph (a) of subsection (1), paragraph (a)
137 of subsection (3), and subsection (5) of section 948.03, Florida
138 Statutes, are amended to read:

139 948.03 Terms and conditions of probation or community
140 control.--

141 (1) The court shall determine the terms and conditions of
142 probation or community control. Conditions specified in
143 paragraphs (a)-(m) do not require oral pronouncement at the time
144 of sentencing and may be considered standard conditions of
145 probation. Conditions specified in paragraphs (a)-(m) and (2)(a)
146 do not require oral pronouncement at sentencing and may be
147 considered standard conditions of community control. These
148 conditions may include among them the following, that the
149 probationer or offender in community control shall:

150 (a) Report to the probation officers ~~and parole~~
151 ~~supervisors~~ as directed. The offender shall provide to the
152 probation officer a full, truthful, and complete oral or written
153 report each month. The report must include, but need not be
154 limited to, the offender's employment status, monthly earnings,
155 and financial ability. At the discretion of the department, the

035861

Amendment No. (for drafter's use only)

156 reporting requirement may include electronic monitoring at the
157 expense of the offender.

158 (3)(a)1. The Department of Corrections may, at its
159 discretion, instruct an offender to submit to electronic
160 monitoring. In such cases, the electronic monitoring shall be
161 considered to be supervisory instructions implementing the
162 standard condition of supervision requiring the offender to
163 report to probation officers as directed. This subparagraph does
164 not limit the judge's discretion to order electronic monitoring
165 in appropriate cases ~~electronically monitor an offender~~
166 ~~sentenced to community control.~~

167 2. The Department of Corrections shall electronically
168 monitor an offender sentenced to criminal quarantine community
169 control 24 hours per day.

170 (5) Conditions imposed pursuant to this subsection, as
171 specified in paragraphs (a), ~~and~~ (b), and (c), do not require
172 oral pronouncement at the time of sentencing and shall be
173 considered standard conditions of probation or community control
174 for offenders specified in this subsection.

175 (a) Effective for probationers or community controllees
176 whose crime was committed on or after October 1, 1995, and who
177 are placed under supervision for violation of chapter 794, s.
178 800.04, s. 827.071, or s. 847.0145, the court must impose the
179 following conditions in addition to all other standard and
180 special conditions imposed:

181 1. A mandatory curfew from 10 p.m. to 6 a.m. The court may
182 designate another 8-hour period if the offender's employment
183 precludes the above specified time, and such alternative is

035861

Amendment No. (for drafter's use only)

184 recommended by the Department of Corrections. If the court
185 determines that imposing a curfew would endanger the victim, the
186 court may consider alternative sanctions.

187 2. If the victim was under the age of 18, a prohibition on
188 living within 1,000 feet of a school, day care center, park,
189 playground, or other place where children regularly congregate,
190 as prescribed by the court. The 1,000-foot distance shall be
191 measured in a straight line from the offender's place of
192 residence to the nearest boundary line of the school, day care
193 center, park, playground, or other place where children
194 congregate. The distance may not be measured by a pedestrian
195 route or automobile route.

196 3. Active participation in and successful completion of a
197 sex offender treatment program with therapists specifically
198 trained to treat sex offenders, at the probationer's or
199 community controllee's own expense. If a specially trained
200 therapist is not available within a 50-mile radius of the
201 probationer's or community controllee's residence, the offender
202 shall participate in other appropriate therapy.

203 4. A prohibition on any contact with the victim, directly
204 or indirectly, including through a third person, unless approved
205 by the victim, the offender's therapist, and the sentencing
206 court.

207 5. If the victim was under the age of 18, a prohibition,
208 until successful completion of a sex offender treatment program,
209 on unsupervised contact with a child under the age of 18, unless
210 authorized by the sentencing court without another adult present

035861

Amendment No. (for drafter's use only)

211 | who is responsible for the child's welfare, has been advised of
212 | the crime, and is approved by the sentencing court.

213 | 6. If the victim was under age 18, a prohibition on
214 | working for pay or as a volunteer at any school, day care
215 | center, park, playground, or other place where children
216 | regularly congregate.

217 | 7. Unless otherwise indicated in the treatment plan
218 | provided by the sexual offender treatment program, a prohibition
219 | on viewing, owning, or possessing any obscene, pornographic, or
220 | sexually stimulating visual or auditory material, including
221 | telephone, electronic media, computer programs, or computer
222 | services that are relevant to the offender's deviant behavior
223 | pattern.

224 | 8. A requirement that the probationer or community
225 | controllee must submit two specimens of blood or other approved
226 | biological specimens to the Florida Department of Law
227 | Enforcement to be registered with the DNA data bank.

228 | 9. A requirement that the probationer or community
229 | controllee make restitution to the victim, as ordered by the
230 | court under s. 775.089, for all necessary medical and related
231 | professional services relating to physical, psychiatric, and
232 | psychological care.

233 | 10. Submission to a warrantless search by the community
234 | control or probation officer of the probationer's or community
235 | controllee's person, residence, or vehicle.

236 | (b) Effective for a probationer or community controllee
237 | whose crime was committed on or after October 1, 1997, and who
238 | is placed on sex offender probation for a violation of chapter

035861

Amendment No. (for drafter's use only)

239 794, s. 800.04, s. 827.071, or s. 847.0145, in addition to any
240 other provision of this subsection, the court must impose the
241 following conditions of probation or community control:

242 1. As part of a treatment program, participation at least
243 annually in polygraph examinations to obtain information
244 necessary for risk management and treatment and to reduce the
245 sex offender's denial mechanisms. A polygraph examination must
246 be conducted by a polygrapher trained specifically in the use of
247 the polygraph for the monitoring of sex offenders, where
248 available, and shall be paid by the sex offender. The results of
249 the polygraph examination shall not be used as evidence in court
250 to prove that a violation of community supervision has occurred.

251 2. Maintenance of a driving log and a prohibition against
252 driving a motor vehicle alone without the prior approval of the
253 supervising officer.

254 3. A prohibition against obtaining or using a post office
255 box without the prior approval of the supervising officer.

256 4. If there was sexual contact, a submission to, at the
257 probationer's or community controllee's expense, an HIV test
258 with the results to be released to the victim or ~~and/or~~ the
259 victim's parent or guardian.

260 5. Electronic monitoring when deemed necessary by the
261 community control or probation officer and his or her
262 supervisor, and ordered by the court at the recommendation of
263 the Department of Corrections.

264 (c) Effective for a probationer or community controllee
265 whose crime was committed on or after July 1, 2004, and who is
266 placed under supervision for a violation of chapter 794, s.

035861

Amendment No. (for drafter's use only)

267 800.04, s. 827.071, or s. 847.0145, the court must order
268 electronic monitoring in addition to all other standard and
269 special conditions imposed.

270 Section 5. Subsection (2) of section 948.09, Florida
271 Statutes, is amended to read:

272 948.09 Payment for cost of supervision and
273 rehabilitation.--

274 (2) Any person being electronically monitored by the
275 department ~~as a result of placement on community control~~ shall
276 be required to pay as a surcharge an amount that may not exceed
277 the full cost of the monitoring service in addition to the cost
278 of supervision fee as directed by the sentencing court. The
279 department is authorized to contract with a private entity to
280 provide the services necessary to implement or to facilitate any
281 provision of this chapter. The department is authorized to
282 contract with a private entity for the collection and
283 disposition of the surcharge. The department shall promulgate
284 rules, in accordance with the provisions of chapter 120, to
285 provide for a schedule of maximum fees, including an
286 administrative processing fees, which may be charged to a
287 community controllee for electronic monitoring services. Payment
288 for electronic monitoring required under this section may be
289 made directly to the private entity. Such contract may allow for
290 reasonable costs to the contractor associated with the
291 collection of the surcharge. The surcharge shall be deposited in
292 the Operating Trust Fund to be used by the department for
293 purchasing and maintaining electronic monitoring devices.

035861

Amendment No. (for drafter's use only)

294 Section 6. Section 948.11, Florida Statutes, is amended to
295 read:

296 948.11 Electronic monitoring devices.--

297 (1) Pursuant to chapter 287, the department shall issue a
298 request for proposal for electronic monitoring devices to be
299 used ~~utilized~~ by the department for purposes of electronic
300 monitoring under this section or any other section of law which
301 authorizes electronic monitoring. Electronic monitoring devices
302 certified for use by the department must be licensed by the FCC,
303 must be capable of maintaining full operation on a backup power
304 source for 8 hours, and must meet such other necessary and vital
305 specifications as may be set by the department for tamper-alert,
306 efficient, and economical usage. The provisions of this section
307 do not apply to passive devices.

308 (2) The department shall conduct an electronic monitoring
309 pilot program in one or more judicial circuits within funds
310 appropriated for this purpose to determine the effect of
311 electronic monitoring on offenders on community supervision. The
312 department is authorized to use funds appropriated for the
313 purpose of contracting for a statewide offender tracking and
314 crime-reporting system. The site or sites of the pilot program
315 shall be determined by the advisory committee provided for in
316 this subsection. Offenders to be monitored as a part of the
317 pilot program shall be identified as provided in this
318 subsection. The program shall be conducted in conjunction with
319 local law enforcement. The pilot program shall use a system of
320 electronic monitoring that identifies the location of a
321 monitored offender and timely reports the offender's presence

035861

Amendment No. (for drafter's use only)

322 near a crime scene, entrance into a prohibited area, or
323 departure from specified geographical limitations.

324 (a) The system shall be designed and executed in such a
325 manner so that it contains all data concerning criminal
326 incidents available throughout the state, including detailed
327 geographical inclusion and exclusion zones if a monitored person
328 is lawfully prohibited from leaving or entering certain
329 locations.

330 (b) The system shall be designed to provide either real
331 time or delayed reporting of the monitored person's location and
332 any correlation with the location of a crime or with the
333 person's exit from an inclusion zone or entry into a prohibited
334 zone. This shall include, but need not be limited to:

335 1. Timely alerts and reports to the Department of
336 Corrections when a supervised offender enters or leaves an
337 inclusion or exclusion zone.

338 2. Timely alerts and reports to appropriate local law
339 enforcement officials when any supervised offender is identified
340 as being at or near a crime scene.

341
342 The supervising agency shall determine whether reporting of
343 location and correlation with crime data shall be real time or
344 delayed, and the length of delay, depending upon the seriousness
345 of the monitored person's offense or offenses.

346 (c) The system shall monitor a minimum of 1,000 offenders
347 on state community control supervision or state probation. The
348 following offenders shall be given priority for monitoring and
349 crime-correlation reporting under the system:

035861

Amendment No. (for drafter's use only)

350 1. All probationers and community controllees who have
351 been court ordered to submit to electronic monitoring pursuant
352 to s. 948.03(5)(b) or s. 948.03(5)(c). If more than 1,000
353 offenders are subject to this requirement, the Department of
354 Corrections shall determine which offenders to monitor based
355 upon risk-assessment criteria.

356 2. If fewer than 1,000 probationers and community
357 controllees are court ordered to submit to electronic monitoring
358 pursuant to s. 948.03(5)(b) or s. 948.03(5)(c), the remainder of
359 the 1,000 tracked offenders shall be offenders under the
360 jurisdiction of the Department of Corrections who have been
361 previously convicted of sexual offenses or violent crimes and
362 who are court ordered to submit to electronic monitoring. For
363 the purposes of this subparagraph, the term "conviction" means a
364 determination of guilt that is the result of a plea or a trial,
365 regardless of whether adjudication is withheld or whether a plea
366 of nolo contendere is entered. The Department of Corrections
367 shall determine which offenders to monitor based upon risk-
368 assessment criteria.

369 (d) A statewide advisory committee, to be chaired by the
370 secretary of the department and comprised of a representative of
371 the Office of the Attorney General, a representative of the
372 Department of Law Enforcement, a representative of the
373 Department of Corrections, a representative of the Parole
374 Commission, a representative of the state attorneys appointed by
375 the Florida Prosecuting Attorneys Association, a representative
376 of the public defenders appointed by the Florida Public
377 Defender's Association, Inc., three representatives of the

035861

Amendment No. (for drafter's use only)

378 sheriff appointed by the Florida Sheriff's Association, and
379 three representatives of the police chiefs appointed by the
380 Florida Police Chief's Association, shall monitor and evaluate
381 the electronic monitoring system.

382 Section 7. The sum of \$3.75 million is appropriated from
383 the General Revenue Fund to the Department of Corrections for
384 the purpose of contracting for an integrated statewide offender
385 tracking and crime-reporting system, which shall be fully
386 operational by December 1, 2004.

387 Section 8. For the purpose of incorporating the amendment
388 to section 948.03, Florida Statutes, in a reference thereto,
389 subsection (5) of section 948.001, Florida Statutes, is
390 reenacted to read:

391 948.001 Definitions.--As used in this chapter, the term:

392 (5) "Probation" means a form of community supervision
393 requiring specified contacts with parole and probation officers
394 and other terms and conditions as provided in s. 948.03.

395 Section 9. For the purpose of incorporating the amendment
396 to section 948.03, Florida Statutes, in a reference thereto,
397 subsection (4) of section 958.03, Florida Statutes, is reenacted
398 to read:

399 958.03 Definitions.--As used in this act:

400 (4) "Probation" means a form of community supervision
401 requiring specified contacts with parole and probation officers
402 and other terms and conditions as provided in s. 948.03.

403 Section 10. This act shall take effect upon becoming a
404 law.

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035861

Amendment No. (for drafter's use only)

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===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

A bill to be entitled

An act relating to the electronic monitoring; amending s. 648.387, F.S.; requiring vendors that provide electronic monitoring services to register certain information with the clerk of the court; authorizing bail bond agents to contract with registered vendors to provide electronic monitoring of pretrial releasees in certain circumstances; authorizing bail bond agents to contract with government entities to provide electronic monitoring services in certain circumstances; authorizing such agents to collect a fee for electronic monitoring services; providing that failure to make timely payment of fees constitutes grounds to remand; providing that such fees are exempt from regulation by the Department of Financial Services; providing specifications for electronic monitoring equipment; creating s. 903.0472, F.S.; authorizing pretrial release subject to electronic monitoring; authorizing a fee for such services; providing that failure to make timely payment of electronic monitoring fees constitutes a violation of pretrial release conditions; providing that a violation of pretrial release conditions constitutes grounds to remand; requiring reporting of violations of pretrial release conditions; providing that it is a third degree felony for certain persons to alter, tamper with, damage, or destroy

Amendment No. (for drafter's use only)

434 electronic monitoring equipment; providing criminal
435 penalties; creating s. 903.0473, F.S.; providing for
436 probation appearance bonds; specifying the terms and
437 conditions for filing, estreating, and forfeiting such
438 bonds; amending s. 948.03, F.S.; revising the reporting
439 requirements applicable to probationers and community
440 controllees; authorizing the Department of Corrections to
441 require electronic monitoring as part of such report;
442 authorizing the imposition of a fee for such monitoring;
443 requiring the court to order the electronic monitoring of
444 certain sex offenders whose crime is committed on or after
445 a specified date; amending s. 948.09, F.S.; authorizing
446 the Department of Corrections to contract with private
447 entities in certain circumstances involving probation and
448 community control; amending s. 948.11, F.S.; requiring the
449 Department of Corrections to implement a pilot program
450 that uses an electronic monitoring system that reports the
451 location of a monitored offender and correlates that
452 information with other crime data; providing for a
453 statewide advisory committee to oversee and evaluate the
454 system; providing an appropriation; reenacting ss.
455 948.001(5) and 958.03(4), F.S.; relating to the definition
456 of probation, for the purpose of incorporating the
457 amendment to s. 948.03, F.S., in references thereto;
458 providing an effective date.

035861