

1 A bill to be entitled

2 An act relating to the electronic monitoring; amending s.
3 648.387, F.S.; requiring vendors that provide electronic
4 monitoring services to register certain information with
5 the clerk of the court; authorizing bail bond agents to
6 contract with registered vendors to provide electronic
7 monitoring of pretrial releasees in certain circumstances;
8 authorizing bail bond agents to contract with government
9 entities to provide electronic monitoring services in
10 certain circumstances; authorizing such agents to collect
11 a fee for electronic monitoring services; providing that
12 failure to make timely payment of fees constitutes grounds
13 to remand; providing that such fees are exempt from
14 regulation by the Department of Financial Services;
15 providing specifications for electronic monitoring
16 equipment; creating s. 903.0472, F.S.; authorizing
17 pretrial release subject to electronic monitoring;
18 authorizing a fee for such services; providing that
19 failure to make timely payment of electronic monitoring
20 fees constitutes a violation of pretrial release
21 conditions; providing that a violation of pretrial release
22 conditions constitutes grounds to remand; requiring
23 reporting of violations of pretrial release conditions;
24 providing that it is a third degree felony for certain
25 persons to alter, tamper with, damage, or destroy
26 electronic monitoring equipment; providing criminal
27 penalties; creating s. 903.0473, F.S.; providing for
28 probation appearance bonds; specifying the terms and

29 conditions for filing, estreating, and forfeiting such
30 bonds; amending s. 948.03, F.S.; revising the reporting
31 requirements applicable to probationers and community
32 controllees; authorizing the Department of Corrections to
33 require electronic monitoring as part of such report;
34 authorizing the imposition of a fee for such monitoring;
35 requiring the court to order the electronic monitoring of
36 certain sex offenders whose crime is committed on or after
37 a specified date; amending s. 948.09, F.S.; authorizing
38 the Department of Corrections to contract with private
39 entities in certain circumstances involving probation and
40 community control; amending s. 948.11, F.S.; requiring the
41 Department of Corrections to implement a pilot program
42 that uses an electronic monitoring system that reports the
43 location of a monitored offender and correlates that
44 information with other crime data; providing for a
45 statewide advisory committee to oversee and evaluate the
46 system; providing an appropriation; reenacting ss.
47 948.001(5) and 958.03(4), F.S.; relating to the definition
48 of probation, for the purpose of incorporating the
49 amendment to s. 948.03, F.S., in references thereto;
50 providing an effective date.

51
52 Be It Enacted by the Legislature of the State of Florida:

53
54 Section 1. Subsection (6) is added to section 648.387,
55 Florida Statutes, to read:

56 648.387 Primary bail bond agents; duties.--

57 (6)(a)1. A bail bond agent may contract with a vendor of
58 the bail bond agent's choice from among those vendors who
59 register with the clerk of the court to provide electronic
60 monitoring of any person who is released by the court in
61 accordance with chapter 903, subject to court-ordered conditions
62 requiring electronic monitoring.

63 2. A vendor who provides electronic monitoring services
64 shall register with the clerk of the court in each judicial
65 circuit in which the vendor intends to provide such services. At
66 a minimum, the vendor shall provide the clerk with the name of
67 the vendor, the name of an individual employed by the vendor who
68 is to serve as a contact person for the vendor, the address of
69 the vendor, and the telephone number of the contact person. Each
70 clerk of the court may establish an appropriate fee for
71 registration, not to exceed \$25.

72 (b) A bail bond agent may contract with government
73 entities to provide electronic monitoring services as a
74 condition of bail or bond, independent of bail or bond, or under
75 conditions ordered by the court.

76 (c) Bail bond agents are authorized to assess and collect
77 a reasonable, nonrefundable fee for electronic monitoring
78 services from the person who is subject to electronic
79 monitoring. Failure to make timely payment of such fees
80 constitutes grounds for the agent to remand such person to the
81 court or sheriff. Fees associated with required electronic
82 monitoring services are not considered part of the premium for
83 bail bond and shall be exempt from the provisions of s. 648.26.

84 (d)1. The contracted vendor providing the electronic
85 monitoring services shall furnish a transmitter that meets
86 certification standards approved by the Federal Communications
87 Commission unless otherwise specified by state law. For purposes
88 of providing electronic monitoring in accordance with this
89 section and s. 903.0472, each transmitter shall perform
90 according to the following specifications:

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

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

94 c. Possess signal content that identifies the offender and
95 the offender's location.

96 d. Possess an internal power source that provides a
97 minimum of 1 year of normal operation without need for
98 recharging or replacing the power source, as well as signal
99 content that indicates the power status of the transmitter and
100 provides the vendor with notification of whether the power
101 source needs to be recharged or replaced.

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

104 f. Possess encrypted signal content or another feature
105 designed to discourage duplication.

106 g. Be of a design that is shock resistant, water and
107 moisture proof, and capable of reliable function under normal
108 atmospheric and environmental conditions.

109 h. Be capable of wear and use in a manner that does not
110 pose a safety hazard or unduly restrict the activities of the
111 defendant.

112
113 In addition, the transmitter must be capable of being attached
114 to the defendant in a manner that readily reveals any efforts to
115 tamper with or remove the transmitter upon visual inspection.
116 Straps or other mechanisms for attaching the transmitter to the
117 defendant must be either capable of being adjusted to fit a
118 defendant of any size or made available in a variety of sizes.

119 2. The contracted vendor providing the electronic
120 monitoring services shall furnish the bail bondsman with a
121 monitoring unit that meets certification standards approved by
122 the Federal Communications Commission unless otherwise specified
123 by state law. The monitoring unit must be capable of receiving
124 radio-frequency signals from the transmitter worn by the
125 defendant and described in subparagraph 1. The monitoring unit
126 must transmit data concerning the defendant's monitoring status
127 to a central monitoring system facility. The monitoring unit
128 must include an internal memory capable of storing data in the
129 event that communication with the central monitoring system
130 facility is disrupted or in the event of a power failure. The
131 monitoring unit must be capable of transmitting data that is
132 stored by the unit in the event that communication with the
133 central monitoring system facility is disrupted as soon as
134 communication is restored. The monitoring unit must not pose any
135 safety hazard to the defendant or others and must be capable of
136 reliable function under normal environmental and atmospheric
137 conditions.

138 Section 2. Section 903.0472, Florida Statutes, is created
139 to read:

140 903.0472 Electronic monitoring.--

141 (1) The court may order the defendant to be released from
142 custody subject to conditions of electronic monitoring, if such
143 services are provided in its jurisdiction. The court may order
144 the defendant to pay a reasonable fee for such services as a
145 condition of pretrial release. The failure of the defendant to
146 make timely payment of such fees constitutes a violation of
147 pretrial release and grounds for the defendant to be remanded to
148 the court or appropriate sheriff.

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

153 (3) A defendant who has been released in accordance with
154 the provisions of this section shall not alter, tamper with,
155 damage, or destroy any electronic monitoring equipment. A person
156 who violates this subsection commits a felony of the third
157 degree, punishable as provided in s. 775.082, s. 775.083, or s.
158 775.084.

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

161 Section 3. Section 903.0473, Florida Statutes, is created
162 to read:

163 903.0473 Probation appearance bond.--As a condition of any
164 probation, community control, or any other court-ordered
165 community supervision authorized pursuant to chapter 948, the
166 court may order the posting of a bond to secure the appearance
167 of the defendant at any subsequent court proceeding. The

168 appearance bond shall be filed by a bail agent with the sheriff
 169 who shall provide a copy to the clerk of court. Upon 72 hours
 170 notice by the Clerk of Court, the bail agent shall produce the
 171 person on probation, community control, or other court-ordered
 172 community supervision to the court. The bail agent shall
 173 surrender to the sheriff a person on probation, community
 174 control or court-ordered community supervision upon notice by
 175 the probation officer that the person has violated the terms of
 176 probation, community control, or court-ordered community
 177 supervision. If the bail agent fails to produce the defendant in
 178 the court at the time noticed by the court or the clerk of
 179 court, the bond shall be estreated and forfeited according to
 180 the procedures set forth in this chapter and chapter 643.
 181 Failure to appear shall be the sole grounds for forfeiture and
 182 estreatment of the appearance bond. Where not inconsistent with
 183 this subsection, this chapter and chapter 648 shall regulate the
 184 relationship between the bail agent and probationer.

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

188 948.03 Terms and conditions of probation or community
 189 control.--

190 (1) The court shall determine the terms and conditions of
 191 probation or community control. Conditions specified in
 192 paragraphs (a)-(m) do not require oral pronouncement at the time
 193 of sentencing and may be considered standard conditions of
 194 probation. Conditions specified in paragraphs (a)-(m) and (2)(a)
 195 do not require oral pronouncement at sentencing and may be

196 considered standard conditions of community control. These
197 conditions may include among them the following, that the
198 probationer or offender in community control shall:

199 (a) Report to the probation officers ~~and parole~~
200 ~~supervisors~~ as directed. The offender shall provide to the
201 probation officer a full, truthful, and complete oral or written
202 report each month. The report must include, but need not be
203 limited to, the offender's employment status, monthly earnings,
204 and financial ability. At the discretion of the department, the
205 reporting requirement may include electronic monitoring at the
206 expense of the offender.

207 (3)(a)1. The Department of Corrections may, at its
208 discretion, instruct an offender to submit to electronic
209 monitoring. In such cases, the electronic monitoring shall be
210 considered to be supervisory instructions implementing the
211 standard condition of supervision requiring the offender to
212 report to probation officers as directed. This subparagraph does
213 not limit the judge's discretion to order electronic monitoring
214 in appropriate cases ~~electronically monitor an offender~~
215 ~~sentenced to community control.~~

216 2. The Department of Corrections shall electronically
217 monitor an offender sentenced to criminal quarantine community
218 control 24 hours per day.

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

224 (a) Effective for probationers or community controllees
225 whose crime was committed on or after October 1, 1995, and who
226 are placed under supervision for violation of chapter 794, s.
227 800.04, s. 827.071, or s. 847.0145, the court must impose the
228 following conditions in addition to all other standard and
229 special conditions imposed:

230 1. A mandatory curfew from 10 p.m. to 6 a.m. The court may
231 designate another 8-hour period if the offender's employment
232 precludes the above specified time, and such alternative is
233 recommended by the Department of Corrections. If the court
234 determines that imposing a curfew would endanger the victim, the
235 court may consider alternative sanctions.

236 2. If the victim was under the age of 18, a prohibition on
237 living within 1,000 feet of a school, day care center, park,
238 playground, or other place where children regularly congregate,
239 as prescribed by the court. The 1,000-foot distance shall be
240 measured in a straight line from the offender's place of
241 residence to the nearest boundary line of the school, day care
242 center, park, playground, or other place where children
243 congregate. The distance may not be measured by a pedestrian
244 route or automobile route.

245 3. Active participation in and successful completion of a
246 sex offender treatment program with therapists specifically
247 trained to treat sex offenders, at the probationer's or
248 community controllee's own expense. If a specially trained
249 therapist is not available within a 50-mile radius of the
250 probationer's or community controllee's residence, the offender
251 shall participate in other appropriate therapy.

252 4. A prohibition on any contact with the victim, directly
253 or indirectly, including through a third person, unless approved
254 by the victim, the offender's therapist, and the sentencing
255 court.

256 5. If the victim was under the age of 18, a prohibition,
257 until successful completion of a sex offender treatment program,
258 on unsupervised contact with a child under the age of 18, unless
259 authorized by the sentencing court without another adult present
260 who is responsible for the child's welfare, has been advised of
261 the crime, and is approved by the sentencing court.

262 6. If the victim was under age 18, a prohibition on
263 working for pay or as a volunteer at any school, day care
264 center, park, playground, or other place where children
265 regularly congregate.

266 7. Unless otherwise indicated in the treatment plan
267 provided by the sexual offender treatment program, a prohibition
268 on viewing, owning, or possessing any obscene, pornographic, or
269 sexually stimulating visual or auditory material, including
270 telephone, electronic media, computer programs, or computer
271 services that are relevant to the offender's deviant behavior
272 pattern.

273 8. A requirement that the probationer or community
274 controllee must submit two specimens of blood or other approved
275 biological specimens to the Florida Department of Law
276 Enforcement to be registered with the DNA data bank.

277 9. A requirement that the probationer or community
278 controllee make restitution to the victim, as ordered by the
279 court under s. 775.089, for all necessary medical and related

280 professional services relating to physical, psychiatric, and
281 psychological care.

282 10. Submission to a warrantless search by the community
283 control or probation officer of the probationer's or community
284 controllee's person, residence, or vehicle.

285 (b) Effective for a probationer or community controllee
286 whose crime was committed on or after October 1, 1997, and who
287 is placed on sex offender probation for a violation of chapter
288 794, s. 800.04, s. 827.071, or s. 847.0145, in addition to any
289 other provision of this subsection, the court must impose the
290 following conditions of probation or community control:

291 1. As part of a treatment program, participation at least
292 annually in polygraph examinations to obtain information
293 necessary for risk management and treatment and to reduce the
294 sex offender's denial mechanisms. A polygraph examination must
295 be conducted by a polygrapher trained specifically in the use of
296 the polygraph for the monitoring of sex offenders, where
297 available, and shall be paid by the sex offender. The results of
298 the polygraph examination shall not be used as evidence in court
299 to prove that a violation of community supervision has occurred.

300 2. Maintenance of a driving log and a prohibition against
301 driving a motor vehicle alone without the prior approval of the
302 supervising officer.

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

305 4. If there was sexual contact, a submission to, at the
306 probationer's or community controllee's expense, an HIV test

307 with the results to be released to the victim or ~~and/or~~ the
308 victim's parent or guardian.

309 5. Electronic monitoring when deemed necessary by the
310 community control or probation officer and his or her
311 supervisor, and ordered by the court at the recommendation of
312 the Department of Corrections.

313 (c) Effective for a probationer or community controllee
314 whose crime was committed on or after July 1, 2004, and who is
315 placed under supervision for a violation of chapter 794, s.
316 800.04, s. 827.071, or s. 847.0145, the court must order
317 electronic monitoring in addition to all other standard and
318 special conditions imposed.

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

321 948.09 Payment for cost of supervision and
322 rehabilitation.--

323 (2) Any person being electronically monitored by the
324 department ~~as a result of placement on community control~~ shall
325 be required to pay as a surcharge an amount that may not exceed
326 the full cost of the monitoring service in addition to the cost
327 of supervision fee as directed by the sentencing court. The
328 department is authorized to contract with a private entity to
329 provide the services necessary to implement or to facilitate any
330 provision of this chapter. The department is authorized to
331 contract with a private entity for the collection and
332 disposition of the surcharge. The department shall promulgate
333 rules, in accordance with the provisions of chapter 120, to
334 provide for a schedule of maximum fees, including an

335 administrative processing fees, which may be charged to a
336 community controllee for electronic monitoring services. Payment
337 for electronic monitoring required under this section may be
338 made directly to the private entity. Such contract may allow for
339 reasonable costs to the contractor associated with the
340 collection of the surcharge. The surcharge shall be deposited in
341 the Operating Trust Fund to be used by the department for
342 purchasing and maintaining electronic monitoring devices.

343 Section 6. Section 948.11, Florida Statutes, is amended to
344 read:

345 948.11 Electronic monitoring devices.--

346 (1) Pursuant to chapter 287, the department shall issue a
347 request for proposal for electronic monitoring devices to be
348 used ~~utilized~~ by the department for purposes of electronic
349 monitoring under this section or any other section of law which
350 authorizes electronic monitoring. Electronic monitoring devices
351 certified for use by the department must be licensed by the FCC,
352 must be capable of maintaining full operation on a backup power
353 source for 8 hours, and must meet such other necessary and vital
354 specifications as may be set by the department for tamper-alert,
355 efficient, and economical usage. The provisions of this section
356 do not apply to passive devices.

357 (2) The department shall conduct an electronic monitoring
358 pilot program in one or more judicial circuits within funds
359 appropriated for this purpose to determine the effect of
360 electronic monitoring on offenders on community supervision. The
361 department is authorized to use funds appropriated for the
362 purpose of contracting for a statewide offender tracking and

363 crime-reporting system. The site or sites of the pilot program
364 shall be determined by the advisory committee provided for in
365 this subsection. Offenders to be monitored as a part of the
366 pilot program shall be identified as provided in this
367 subsection. The program shall be conducted in conjunction with
368 local law enforcement. The pilot program shall use a system of
369 electronic monitoring that identifies the location of a
370 monitored offender and timely reports the offender's presence
371 near a crime scene, entrance into a prohibited area, or
372 departure from specified geographical limitations.

373 (a) The system shall be designed and executed in such a
374 manner so that it contains all data concerning criminal
375 incidents available throughout the state, including detailed
376 geographical inclusion and exclusion zones if a monitored person
377 is lawfully prohibited from leaving or entering certain
378 locations.

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

384 1. Timely alerts and reports to the Department of
385 Corrections when a supervised offender enters or leaves an
386 inclusion or exclusion zone.

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

390

391 The supervising agency shall determine whether reporting of
392 location and correlation with crime data shall be real time or
393 delayed, and the length of delay, depending upon the seriousness
394 of the monitored person's offense or offenses.

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

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

405 2. If fewer than 1,000 probationers and community
406 controllees are court ordered to submit to electronic monitoring
407 pursuant to s. 948.03(5)(b) or s. 948.03(5)(c), the remainder of
408 the 1,000 tracked offenders shall be offenders under the
409 jurisdiction of the Department of Corrections who have been
410 previously convicted of sexual offenses or violent crimes and
411 who are court ordered to submit to electronic monitoring. For
412 the purposes of this subparagraph, the term "conviction" means a
413 determination of guilt that is the result of a plea or a trial,
414 regardless of whether adjudication is withheld or whether a plea
415 of nolo contendere is entered. The Department of Corrections
416 shall determine which offenders to monitor based upon risk-
417 assessment criteria.

418 (d) A statewide advisory committee, to be chaired by the
 419 secretary of the department and comprised of a representative of
 420 the Office of the Attorney General, a representative of the
 421 Department of Law Enforcement, a representative of the
 422 Department of Corrections, a representative of the Parole
 423 Commission, a representative of the state attorneys appointed by
 424 the Florida Prosecuting Attorneys Association, a representative
 425 of the public defenders appointed by the Florida Public
 426 Defender's Association, Inc., three representatives of the
 427 sheriff appointed by the Florida Sheriff's Association, and
 428 three representatives of the police chiefs appointed by the
 429 Florida Police Chief's Association, shall monitor and evaluate
 430 the electronic monitoring system.

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

436 Section 8. For the purpose of incorporating the amendment
 437 to section 948.03, Florida Statutes, in a reference thereto,
 438 subsection (5) of section 948.001, Florida Statutes, is
 439 reenacted to read:

440 948.001 Definitions.--As used in this chapter, the term:

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

444 Section 9. For the purpose of incorporating the amendment
 445 to section 948.03, Florida Statutes, in a reference thereto,

446 subsection (4) of section 958.03, Florida Statutes, is reenacted
447 to read:

448 958.03 Definitions.--As used in this act:

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

452 Section 10. This act shall take effect upon becoming a
453 law.

454