

Bill No. SB 1220

Barcode 594460

CHAMBER ACTION

Senate

House

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The Committee on Criminal Justice (Wise) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause,

and insert:

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

648.387 Primary bail bond agents; duties.--

(6)(a) A bail bond agent may be a vendor of electronic monitoring services. A bail bond agent may also contract with a vendor of the bail bond agent's choice from among those vendors approved under s. 907.07 for monitoring of a defendant for whom the agent has provided a criminal surety bail bond. A bail bond agent may additionally contract with government entities to provide electronic monitoring services when monitoring has been ordered by a court.

(b) A bail bond agent may charge a reasonable, nonrefundable fee for electronic monitoring services from the person who is subject to electronic monitoring. Failure to

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1 make timely payment of such fees constitutes grounds for the  
 2 agent to remand such person to the court or sheriff. Fees  
 3 charged by a bail bond agent associated with required  
 4 electronic monitoring services are not considered part of the  
 5 premium for bail bond and shall be exempt from the provisions  
 6 of s. 648.33.

7 Section 2. Section 903.135, Florida Statutes, is  
 8 created to read:

9 903.135 Probation appearance bond.--As a condition of  
 10 any probation, community control, or any other court-ordered  
 11 community supervision authorized pursuant to chapter 948, the  
 12 court may order the posting of a bond to secure the appearance  
 13 of the defendant at any subsequent court proceeding. Such bond  
 14 may include as a condition thereof that the defendant be  
 15 placed on an electronic monitoring device, in a like manner  
 16 and under like conditions as in s. 907.06. The appearance bond  
 17 shall be filed by a bail agent with the sheriff who shall  
 18 provide a copy to the clerk of the court. Upon 72 hours notice  
 19 by the Clerk of Court, the bail agent shall produce the person  
 20 on probation, community control, or other court-ordered  
 21 community supervision to the court. The bail agent shall  
 22 surrender to the sheriff a person on probation, community  
 23 control or court-ordered community supervision upon notice by  
 24 the probation officer that the person has violated the terms  
 25 of probation, community control, or court-ordered community  
 26 supervision. If the bail agent fails to produce the defendant  
 27 in the court at the time noticed by the court or the clerk of  
 28 court, the bond shall be estreated and forfeited according to  
 29 the procedures set forth in this chapter. Failure to appear  
 30 shall be the sole grounds for forfeiture and estreatment of the  
 31 appearance bond. Where not inconsistent with this subsection,

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1 this chapter and chapter 648 shall regulate the relationship  
2 between the bail agent and probationer.

3 Section 3. Section 907.06, Florida Statutes, is  
4 created to read:

5 907.06 Electronic monitoring.--

6 (1) As a condition of pretrial release, and whether or  
7 not the court requires bail as a condition of pretrial  
8 release, the court may order a defendant charged with a  
9 violent or sex related offense, or who has previously been  
10 convicted of a violent or sex related offense, to be subject  
11 to electronic monitoring, if electronic monitoring is  
12 available in the jurisdiction. This section also applies to  
13 persons subject to electronic monitoring pursuant to s.  
14 903.135.

15 (2) A defendant required to submit to electronic  
16 monitoring shall pay a reasonable fee for equipment use and  
17 monitoring as an additional condition of pretrial release. The  
18 failure of the defendant to make timely payment of such fees  
19 constitutes a violation of pretrial release and grounds for  
20 the defendant to be remanded to the court or appropriate  
21 sheriff.

22 (3) The court ordering electronic monitoring shall  
23 appoint a person to continuously receive and monitor the  
24 radio-frequency signals from the transmitter worn by the  
25 defendant so as to be capable of identifying the defendant's  
26 geographic position at any time, subject to the limitations  
27 related to the technology and to circumstances of force  
28 majeure. The appointed person may be a government entity, or  
29 may be a vendor as provided in s. 907.07 a bail bond agent may  
30 provide both bail bond services and electronic monitoring  
31 services.

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1       (4) Any person who provides electronic monitoring  
 2 services shall report forthwith any known violation of the  
 3 defendant's pretrial release conditions to the appropriate  
 4 court, sheriff, state attorney, and bail agent, if any.

5       (5) A defendant who has been released in accordance  
 6 with the provisions of this section shall not alter, tamper  
 7 with, damage, or destroy any electronic monitoring equipment.  
 8 A defendant who is notified of a malfunction in the equipment  
 9 shall immediately cooperate with the vendor in restoring the  
 10 equipment to proper functioning. A violation of this  
 11 subsection constitutes a violation of pretrial release and  
 12 grounds for the defendant to be remanded to the court or  
 13 appropriate sheriff.

14       Section 4. Section 907.07, Florida Statutes, is  
 15 created to read:

16       907.07 Approved vendors for provision of electronic  
 17 monitoring services; approved equipment.--

18       (1) This section does not apply to electronic  
 19 monitoring provided by the state, a county or a sheriff.

20       (2) The chief judge of each circuit shall develop and  
 21 maintain a list of all vendors who are authorized to provide  
 22 electronic monitoring services for courts in the circuit. The  
 23 chief judge shall place any person who is eligible as a  
 24 vendor, and who agrees to comply with the terms of this  
 25 section, onto the list of approved vendors.

26       (3) The following persons are eligible for inclusion  
 27 on the list of approved vendors:

28       (a) A bail bond agency holding an active and current  
 29 license pursuant to ch. 648.

30       (b) A private investigative agency holding a current  
 31 and active license pursuant to ch. 493.

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1       (c) A person approved by the chief judge in his or her  
 2 discretion, who is known to the chief judge as a person who is  
 3 reliable, trustworthy, and has never been convicted of a  
 4 felony or crime or moral turpitude.

5       (4) A vendor must agree to abide by the following  
 6 minimum terms before inclusion on the list of approved  
 7 vendors:

8           (a) The vendor shall provide the clerk with the name  
 9 of the vendor, the name of an individual employed by the  
 10 vendor who is to serve as a contact person for the vendor, the  
 11 address of the vendor, and the telephone number of the contact  
 12 person.

13           (b) The vendor must initially certify, and must  
 14 certify at least annually thereafter on a date set by the  
 15 chief judge, that all of the vendor's electronic monitoring  
 16 devices comply with the requirements for privately owned  
 17 electronic monitoring devices in s. 907.08.

18           (5) A vendor shall promptly notify the chief judge of  
 19 any changes in the vendor's address, ownership, or  
 20 qualification to be a vendor.

21           (6) The chief judge, in his discretion, may remove any  
 22 vendor from the list of approved vendors should the vendor:

23           (a) Fail to comply with the registration requirements  
 24 of this section.

25           (b) Fail to properly monitor any person that the  
 26 vendor was required to monitor.

27           (c) Charge a defendant a clearly excessive fee for use  
 28 and monitoring of electronic monitoring equipment.

29           Section 5. Section 907.08, Florida Statutes, is  
 30 created to read:

31           907.08 Standards for privately owned electronic

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1 monitoring devices.--A privately owned electronic monitoring  
2 device provided by a vendor must, at a minimum, meet the  
3 standards set forth in this section. A device must:

4       (1) Be a transmitter unit that meets certification  
5 standards approved by the Federal Communications Commission.

6       (2) At the court's discretion, either:

7           (a) Emit signal content 24 hours per day, which signal  
8 identifies the specific device being worn by the defendant and  
9 the defendant's physical location using global positioning  
10 system (GPS) technology accurate to within 3 meters.

11           (b) Receive signal content 24 hours per day,  
12 determining the defendant's physical location using global  
13 positioning system (GPS) technology accurate to within 3  
14 meters, recording the defendant's physical locations  
15 throughout the day, and capable of transmitting that record of  
16 locations to the vendor at least daily.

17       (3) A unit affixed to the defendant must possess an  
18 internal power source that provides a minimum of 1 year of  
19 normal operation without need for recharging or replacing the  
20 power source. The device must emit signal content that  
21 indicates the power status of the transmitter and provides the  
22 vendor with notification of whether the power source needs to  
23 be recharged or replaced.

24       (4) Possess and emit signal content that indicates  
25 whether the transmitter has been subjected to tampering or  
26 removal.

27       (5) Possess encrypted signal content or another  
28 feature designed to discourage duplication.

29       (6) Be of a design that is shock resistant, water and  
30 moisture proof, and capable of reliable function under normal  
31 atmospheric and environmental conditions.

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1       (7) Be capable of wear and use in a manner that does  
2 not pose a safety hazard or unduly restrict the activities of  
3 the defendant.

4       (8) Be capable of being attached to the defendant in a  
5 manner that readily reveals any efforts to tamper with or  
6 remove the transmitter upon visual inspection.

7       (9) Utilize straps or other mechanisms for attaching  
8 the transmitter to the defendant that are either capable of  
9 being adjusted to fit a defendant of any size or made  
10 available in a variety of sizes.

11           Section 6. Section 907.09, Florida Statutes, is  
12 created to read:

13           907.09 Offenses related to electronic monitoring  
14 devices.--

15           (1) It is illegal for any person to intentionally  
16 alter, tamper with, damage or destroy any electronic  
17 monitoring equipment used for monitoring the location of a  
18 person pursuant to court order, unless such person is the  
19 owner of the equipment, or an agent of the owner, performing  
20 ordinary maintenance and repairs. A person who violates this  
21 subsection commits a felony of the third degree, punishable as  
22 provided in s. 775.082, s. 775.083, or s. 775.084.

23           (2) It is illegal for any person to develop, build,  
24 create, possess, or use any device that is intended to mimic,  
25 clone, interfere with, or jam the signal of an electronic  
26 monitoring device used to monitor the location of a person  
27 pursuant to court order. A person who violates this subsection  
28 commits a felony of the second degree, punishable as provided  
29 in s. 775.082, s. 775.083, or s. 775.084.

30           Section 7. This act shall take effect October 1, 2005.

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

2 And the title is amended as follows:

3           Delete everything before the enacting clause,

4

5 and insert:

6

          A bill to be entitled

7

          An act relating to electronic monitoring;

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          amending s. 648.387, F.S.; authorizing bail

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          bond agents to be a vendor of electronic

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          monitoring services; authorizing bail bond

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          agents to contract with vendors to provide

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          electronic monitoring of pretrial releasees in

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          certain circumstances; authorizing bail bond

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          agents to contract with government entities to

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          provide electronic monitoring services in

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          certain circumstances; authorizing such agents

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          to collect a fee for electronic monitoring

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          services; providing that failure to make timely

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          payment of fees constitutes grounds to remand;

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          providing that such fees are exempt from

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          regulation by the Department of Financial

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          Services; creating s. 903.135, F.S.;

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          authorizing issuance of a probation appearance

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          bond; authorizing electronic monitoring of a

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          person subject to a probation appearance bond;

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          providing procedures for revocation of the

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          bond; providing application; creating s.

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          907.06, F.S.; providing for electronic

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          monitoring of persons on pretrial release;

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          requiring the monitored person to pay fees;

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          prohibiting a person being monitored from



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1 tampering with monitoring equipment; creating  
2 s. 907.07, F.S.; providing a means by which the  
3 chief judge of each circuit shall create a list  
4 of approved vendors for provision of electronic  
5 monitoring services; creating s. 907.08, F.S.;  
6 providing standards for privately owned  
7 electronic monitoring devices; creating s.  
8 907.09, F.S.; providing criminal penalties for  
9 tampering with electronic monitoring devices;  
10 providing criminal penalties for cloning the  
11 signal of an electronic monitoring device;  
12 providing an effective date.

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