

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Criminal Justice Committee

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BILL: CS/SB 1220

SPONSOR: Criminal Justice Committee and Senators Wise and Fasano

SUBJECT: Probation

DATE: April 7, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cannon	CJ	Fav/CS
2.	_____	_____	JU	_____
3.	_____	_____	JA	_____
4.	_____	_____	WM	_____
5.	_____	_____	RC	_____
6.	_____	_____	_____	_____

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## I. Summary:

This bill amends the law which licenses bail bond agents and permits them to also provide electronic monitoring services for their clients released on bail before trial. A new provision is created to allow courts to order a probation appearance bond to guarantee a defendant's appearance at future court proceedings. Electronic monitoring is permitted as a condition of that bond.

The chief judge of the circuit is required to maintain a list of approved vendors of electronic monitors. Additionally, standards are established which electronic monitors must meet to be approved.

Penalties are included to provide that it is a third degree felony to intentionally tamper with a device. It is a second degree felony to create a device that mimics or interferes with the electronic monitoring signal.

This bill amends section 648.387, F.S., and creates sections 903.135, 907.06, 907.07, 907.08, and 907.09, F.S.

## II. Present Situation:

Chapter 648, F.S., regulates bail bond agents and their duties and establishes their responsibilities and relationship to the Department of Financial Services. There is no language in that chapter or other statutes specifically authorizing bail bond agents to provide electronic monitoring services to persons on pre-trial release.

### **III. Effect of Proposed Changes:**

This bill amends the law licensing bail bond agents by creating s. 648.387, F.S., to establish that a licensed bail bond agent may also provide electronic monitoring of clients as a condition of pre-trial release or for other purposes. The bail bond agent may charge his or her client a fee that is “reasonable” and “nonrefundable” for those services. Those fees are exempted from s. 648.33, F.S., bail bond rates. If the client fails to make payment on time for the electronic monitoring services, the bondsman may take the person into custody and remand the client to the court or sheriff.

Chapter 903, F.S., which governs bail, is amended to create a new section which allows a defendant to post a probation appearance bond securing his or her appearance at subsequent court proceedings. One of the conditions of that bond may be electronic monitoring by a bail bond agent. Additionally, s. 907.06, F.S., is created to permit the court, as a condition or pretrial release, to order a defendant charged with a violent or sex related offense, or one previously convicted of a violent or sex related offense, to be subject to electronic monitoring.

The bill requires the chief judge of each circuit to keep a list of all approved vendors who are authorized to provide electronic monitoring. The information required from each approved private vendor is set forth as well as the standards for electric monitoring devices.

It is a third degree felony to intentionally tamper with or alter the electronic monitoring devices. Additionally, it is illegal and a second degree felony for a person to create or possess a device that is designed to interfere with the signal of an electronic monitoring device.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

Bondsmen and electronic monitoring providers could benefit financially from the provisions of this bill. Bondsmen would be able to charge a fee from the defendant for

the electronic monitoring services and would also be able to contract with local governments for these services. Additionally, companies that provide the equipment and monitoring services would benefit financially from the increased demand for their products and services.

**C. Government Sector Impact:**

The Department of Corrections anticipates that this bill should have a minimal fiscal impact on their operations or prison and probation population.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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