

By the Committee on Criminal Justice; and Senators Wise,
Fasano and Crist

591-1961-05

1 A bill to be entitled
2 An act relating to electronic monitoring;
3 amending s. 648.387, F.S.; authorizing bail
4 bond agents to be vendors of electronic
5 monitoring services; authorizing bail bond
6 agents to contract with vendors to provide
7 electronic monitoring of pretrial releasees in
8 certain circumstances; authorizing bail bond
9 agents to contract with government entities to
10 provide electronic monitoring services in
11 certain circumstances; authorizing such agents
12 to collect a fee for electronic monitoring
13 services; providing that failure to make timely
14 payment of fees constitutes grounds to remand;
15 providing that such fees are exempt from
16 regulation by the Department of Financial
17 Services; creating s. 903.135, F.S.;
18 authorizing issuance of a probation appearance
19 bond; authorizing electronic monitoring of a
20 person subject to a probation appearance bond;
21 providing procedures for revocation of the
22 bond; providing application; creating s.
23 907.06, F.S.; providing for electronic
24 monitoring of persons on pretrial release;
25 requiring the monitored person to pay fees;
26 prohibiting a person being monitored from
27 tampering with monitoring equipment; creating
28 s. 907.07, F.S.; providing a means by which the
29 chief judge of each circuit shall create a list
30 of approved vendors for provision of electronic
31 monitoring services; creating s. 907.08, F.S.;

1 providing standards for privately owned
2 electronic monitoring devices; creating s.
3 907.09, F.S.; providing criminal penalties for
4 tampering with electronic monitoring devices;
5 providing criminal penalties for cloning the
6 signal of an electronic monitoring device;
7 providing an effective date.

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9 Be It Enacted by the Legislature of the State of Florida:

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

13 648.387 Primary bail bond agents; duties.--

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

22 (b) A bail bond agent may charge a reasonable,
23 nonrefundable fee for electronic monitoring services from the
24 person who is subject to electronic monitoring. Failure to
25 make timely payment of such fees constitutes grounds for the
26 agent to remand such person to the court or sheriff. Fees
27 charged by a bail bond agent associated with required
28 electronic monitoring services are not considered part of the
29 premium for bail bond and shall be exempt from the provisions
30 of s. 648.33.

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

3 903.135 Probation appearance bond.--As a condition of
4 any probation, community control, or any other court-ordered
5 community supervision authorized pursuant to chapter 948, the
6 court may order the posting of a bond to secure the appearance
7 of the defendant at any subsequent court proceeding. Such bond
8 may include as a condition thereof that the defendant be
9 placed on an electronic monitoring device, in a like manner
10 and under like conditions as in s. 907.06. The appearance bond
11 shall be filed by a bail agent with the sheriff who shall
12 provide a copy to the clerk of the court. Upon 72 hours notice
13 by the clerk of court, the bail agent shall produce the person
14 on probation, community control, or other court-ordered
15 community supervision to the court. The bail agent shall
16 surrender to the sheriff a person on probation, community
17 control, or court-ordered community supervision upon notice by
18 the probation officer that the person has violated the terms
19 of probation, community control, or court-ordered community
20 supervision. If the bail agent fails to produce the defendant
21 in the court at the time noticed by the court or the clerk of
22 court, the bond shall be estreated and forfeited according to
23 the procedures set forth in this chapter. Failure to appear
24 shall be the sole grounds for forfeiture and estreatment of the
25 appearance bond. Where not inconsistent with this section,
26 this chapter and chapter 648 shall govern the relationship
27 between the bail agent and probationer.

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

30 907.06 Electronic monitoring.--
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1 (1) As a condition of pretrial release, and whether or
2 not the court requires bail as a condition of pretrial
3 release, the court may order a defendant charged with a
4 violent or sexual offense, or who has previously been
5 convicted of a violent or sexual offense, to be subject to
6 electronic monitoring, if electronic monitoring is available
7 in the jurisdiction. This section also applies to persons
8 subject to electronic monitoring pursuant to s. 903.135.

9 (2) A defendant required to submit to electronic
10 monitoring shall pay a reasonable fee for equipment use and
11 monitoring as an additional condition of pretrial release. The
12 failure of the defendant to make timely payment of such fees
13 constitutes a violation of pretrial release and grounds for
14 the defendant to be remanded to the court or appropriate
15 sheriff.

16 (3) The court ordering electronic monitoring shall
17 appoint a person to continuously receive and monitor the
18 radio-frequency signals from the transmitter worn by the
19 defendant so as to be capable of identifying the defendant's
20 geographic position at any time, subject to the limitations
21 related to the technology and to circumstances of force
22 majeuere. The appointed person may be a governmental entity or
23 a vendor as provided in s. 907.07. A bail bond agent may
24 provide both bail bond services and electronic monitoring
25 services.

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

30 (5) A defendant who has been released in accordance
31 with the provisions of this section shall not alter, tamper

1 with, damage, or destroy any electronic monitoring equipment.
2 A defendant who is notified of a malfunction in the equipment
3 shall immediately cooperate with the vendor in restoring the
4 equipment to proper functioning. A violation of this
5 subsection constitutes a violation of pretrial release and
6 grounds for the defendant to be remanded to the court or
7 appropriate sheriff.

8 Section 4. Section 907.07, Florida Statutes, is
9 created to read:

10 907.07 Approved vendors for provision of electronic
11 monitoring services; approved equipment.--

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

14 (2) The chief judge of each circuit shall develop and
15 maintain a list of all vendors who are authorized to provide
16 electronic monitoring services for courts in the circuit. The
17 chief judge shall place any person who is eligible as a
18 vendor, and who agrees to comply with the terms of this
19 section, onto the list of approved vendors.

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

22 (a) A bail bond agency holding an active and current
23 license pursuant to chapter 648.

24 (b) A private investigative agency holding a current
25 and active license pursuant to chapter 493.

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

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1 (4) A vendor must agree to abide by the following
2 minimum terms before inclusion on the list of approved
3 vendors:

4 (a) The vendor shall provide the clerk with the name
5 of the vendor, the name of an individual employed by the
6 vendor who is to serve as a contact person for the vendor, the
7 address of the vendor, and the telephone number of the contact
8 person.

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

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

17 (6) The chief judge, in his discretion, may remove any
18 vendor from the list of approved vendors if the vendor:

19 (a) Fails to comply with the registration requirements
20 of this section.

21 (b) Fails to properly monitor any person that the
22 vendor was required to monitor.

23 (c) Charges a defendant a clearly excessive fee for
24 use and monitoring of electronic monitoring equipment.

25 Section 5. Section 907.08, Florida Statutes, is
26 created to read:

27 907.08 Standards for privately owned electronic
28 monitoring devices.--A privately owned electronic monitoring
29 device provided by a vendor must, at a minimum, meet the
30 standards set forth in this section. A device must:
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1 (1) Be a transmitter unit that meets certification
2 standards approved by the Federal Communications Commission.

3 (2) At the court's discretion:

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

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

14 (3) Possess an internal power source that provides a
15 minimum of 1 year of normal operation without need for
16 recharging or replacing the power source. The device must emit
17 signal content that indicates the power status of the
18 transmitter and provides the vendor with notification of
19 whether the power source needs to be recharged or replaced.

20 (4) Possess and emit signal content that indicates
21 whether the transmitter has been subjected to tampering or
22 removal.

23 (5) Possess encrypted signal content or another
24 feature designed to discourage duplication.

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

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

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

4 (9) Use straps or other mechanisms for attaching the
5 transmitter to the defendant which are capable of being
6 adjusted to fit a defendant of any size or made available in a
7 variety of sizes.

8 Section 6. Section 907.09, Florida Statutes, is
9 created to read:

10 907.09 Offenses related to electronic monitoring
11 devices.--

12 (1) A person may not intentionally alter, tamper with,
13 damage, or destroy any electronic monitoring equipment used
14 for monitoring the location of a person pursuant to court
15 order, unless such person is the owner of the equipment, or an
16 agent of the owner, performing ordinary maintenance and
17 repairs. A person who violates this subsection commits a
18 felony of the third degree, punishable as provided in s.
19 775.082, s. 775.083, or s. 775.084.

20 (2) A person may not develop, build, create, possess,
21 or use any device that is intended to mimic, clone, interfere
22 with, or jam the signal of an electronic monitoring device
23 that is used to monitor the location of a person pursuant to
24 court order. A person who violates this subsection commits a
25 felony of the second degree, punishable as provided in s.
26 775.082, s. 775.083, or s. 775.084.

27 Section 7. This act shall take effect October 1, 2005.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1220

- The original bill contained no substantial provisions of Florida law.
- This committee substitute allows bail bond agents to provide electronic monitoring services to clients released before trial and charge a "reasonable, nonrefundable fee" for those services.
- New provisions are created to allow a probation appearance bond for defendants.
- Electronic monitoring is permitted as a condition of pretrial release for violent or sex related offenses.
- The chief judge of the circuit is required to maintain a list of approved electronic monitoring vendors and standards and set forth for those vendors and their equipment.
- The bill makes it a third degree felony to intentionally tamper with a monitoring device. It is a second degree felony to create a device that mimics or interferes with the electronic monitoring signal.