

1 A bill to be entitled

2 An act relating to electronic monitoring; amending s.  
3 648.387, F.S.; authorizing bail bond agents to be vendors  
4 of electronic monitoring services; authorizing bail bond  
5 agents to contract with third-party vendors to provide  
6 electronic monitoring of pretrial releasees in certain  
7 circumstances; authorizing bail bond agents to register  
8 with a government entity to provide electronic monitoring  
9 services in certain circumstances; authorizing such agents  
10 to collect a fee for electronic monitoring services;  
11 providing that failure to make timely payment of fees  
12 constitutes grounds to remand; providing that such fees  
13 are exempt from regulation by the Department of Financial  
14 Services; creating s. 903.135, F.S.; authorizing issuance  
15 of a probation appearance bond for certain offenders;  
16 authorizing electronic monitoring of a person subject to a  
17 probation appearance bond; providing procedures for  
18 revocation of the bond; providing application; creating s.  
19 907.06, F.S.; providing for electronic monitoring of  
20 persons on pretrial release; requiring the monitored  
21 person to pay fees; providing that provision of electronic  
22 monitoring equipment and services is not an undertaking;  
23 prohibiting a person being monitored from tampering with  
24 monitoring equipment; creating s. 907.07, F.S.; providing  
25 a means by which the chief judge of each circuit shall  
26 maintain a list of eligible private vendors for provision  
27 of electronic monitoring services; creating s. 907.08,  
28 F.S.; providing standards for privately owned electronic

29 monitoring devices; creating s. 907.09, F.S.; providing  
 30 criminal penalties for tampering with electronic  
 31 monitoring devices; providing criminal penalties for  
 32 cloning the signal of an electronic monitoring device;  
 33 amending s. 948.039, F.S.; allowing a court to require a  
 34 probation appearance bond; amending s. 948.11, F.S.;  
 35 allowing private vendors to provide electronic monitoring  
 36 of offenders subject to community control or probation for  
 37 violent felonies and sex-related offenses; providing an  
 38 effective date.

39

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

41

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

44 648.387 Primary bail bond agents; duties.--

45 (6) (a) A licensed bail bond agent may be a vendor of  
 46 electronic monitoring services. A licensed bail bond agent may  
 47 also subcontract for such services with a third-party vendor of  
 48 the bail bond agent's choice provided the licensed bail bond  
 49 agent can certify that the equipment and services rendered by  
 50 such third-party vendor on the bail bond agent's behalf meet the  
 51 requirements of s. 907.07 for monitoring of a defendant for whom  
 52 the bail bond agent has provided a criminal surety bail bond. A  
 53 licensed bail bond agent may additionally register with a  
 54 government entity to provide electronic monitoring services when  
 55 monitoring has been ordered by a court if the electronic  
 56 monitoring devices meet the requirements of s. 907.07.

57 (b) A licensed bail bond agent may charge a reasonable,  
58 nonrefundable fee for electronic monitoring services from the  
59 person who is subject to electronic monitoring. Failure to make  
60 timely payment of such fees constitutes grounds for the agent to  
61 remand such person to the court or sheriff. Fees charged by a  
62 bail bond agent associated with required electronic monitoring  
63 services are not considered part of the bail bond premium and  
64 shall be exempt from the provisions of s. 648.33.

65 (c) Records and receipts for electronic monitoring  
66 provided by a licensed bail bond agent shall be kept separate  
67 and apart from bail bond records.

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

70 903.135 Probation appearance bond.--As a condition of any  
71 probation, community control, or any other court-ordered  
72 community supervision for a violent felony or sex-related  
73 offense authorized pursuant to chapter 948, the court may order  
74 the posting of a surety bond to secure the appearance of the  
75 defendant at any subsequent court proceeding. Such bond may  
76 include as a condition thereof that the defendant be placed on  
77 an electronic monitoring device and subject to electronic  
78 monitoring services, in a like manner and under like conditions  
79 as set forth in s. 907.06. The appearance bond shall be filed by  
80 a licensed bail agent with the sheriff who shall provide a copy  
81 to the clerk of the court. Upon 72 hours' notice by the clerk of  
82 court, the licensed bail agent shall produce the person on  
83 probation, community control, or other court-ordered community  
84 supervision to the court. The licensed bail agent shall

85 surrender to the sheriff a person on probation, community  
86 control, or court-ordered community supervision upon notice by  
87 the probation officer that the person has violated the terms of  
88 probation, community control, or court-ordered community  
89 supervision. Under this section, notice shall be in writing or  
90 by electronic data transmission. If the licensed bail agent  
91 fails to produce the defendant in the court at the time noticed  
92 by the court or the clerk of court, the bond shall be estreated  
93 and forfeited according to the procedures set forth in this  
94 chapter. Failure to appear shall be the sole grounds for  
95 forfeiture and estreatment of the appearance bond. Where not  
96 inconsistent with this section, this chapter and chapter 648  
97 shall regulate the relationship between the bail agent and  
98 probationer.

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

101 907.06 Electronic monitoring.--

102 (1) The court may order a defendant who has been charged  
103 with a violent felony or sex-related offense, or who has been  
104 charged with any crime but who has been previously convicted of  
105 a violent felony or sex-related offense, to be released from  
106 custody on a surety bond subject to conditions that include,  
107 without limitation, electronic monitoring, if electronic  
108 monitoring is available in the jurisdiction. This section also  
109 applies to persons subject to electronic monitoring pursuant to  
110 s. 903.135.

111 (2) A defendant required to submit to electronic  
112 monitoring shall pay a reasonable fee for equipment use and

113 monitoring as an additional condition of pretrial release. The  
114 failure of the defendant to make timely payment of such fees  
115 constitutes a violation of pretrial release and grounds for the  
116 defendant to be remanded to the court or appropriate sheriff or  
117 law enforcement agency.

118 (3) Electronic monitoring shall include the provision of  
119 services to continuously receive and monitor the electronic  
120 signals from the transmitter worn by the defendant so as to be  
121 capable of identifying the defendant's geographic position at  
122 any time to within 9 meters using Global Positioning Satellite  
123 (GPS) technology, subject to the limitations related to the  
124 technology and to circumstances of force majeure. Such  
125 electronic monitoring services may be undertaken as a primary  
126 responsibility by a government entity or by a licensed bail bond  
127 agent who may provide both bail bond services and have primary  
128 responsibility or oversight for electronic monitoring services.  
129 A government entity or licensed bail bond agent may subcontract  
130 to a third-party vendor for electronic monitoring services  
131 provided such third-party vendor complies with all provisions of  
132 this subsection and s. 907.08, and operates under the direction  
133 and control of the government entity or bond agent with primary  
134 responsibility as the vendor for electronic monitoring. A  
135 government entity that elects to subcontract for electronic  
136 monitoring services shall be required to select such third-party  
137 vendor through a competitive bidding process.

138 (4) Any person who provides electronic monitoring services  
139 shall report forthwith any known violation of the defendant's  
140 pretrial release conditions to the appropriate court, sheriff or

141 law enforcement agency, state attorney, and licensed bail agent,  
142 if any. Notwithstanding the foregoing requirement, the provision  
143 of electronic monitoring services shall not be deemed to  
144 constitute an undertaking to protect members of the public from  
145 harm occasioned by a monitored person. The sole duty owed by a  
146 person who provides electronic monitoring is to give a law  
147 enforcement officer, upon request, an indication of the physical  
148 location of the monitored person at any point in time. It is  
149 unreasonable for any member of the public to expect that a  
150 provider of electronic monitoring services will provide  
151 protection against harm occasioned by a monitored person. A  
152 provider of electronic monitoring services cannot control the  
153 activities of a monitored person. A person who provides  
154 electronic monitoring is not responsible to other persons for  
155 equipment failure or for the criminal acts of a monitored  
156 person.

157 (5) A defendant who has been released in accordance with  
158 the provisions of this section shall not alter, tamper with,  
159 damage, or destroy any electronic monitoring equipment. A  
160 defendant who is notified of a malfunction in the equipment  
161 shall immediately cooperate with the vendor in restoring the  
162 equipment to proper functioning. A violation of this subsection  
163 constitutes a violation of pretrial release and grounds for the  
164 defendant to be remanded to the court or appropriate sheriff or  
165 law enforcement agency.

166 Section 4. Section 907.07, Florida Statutes, is created to  
167 read:

168 907.07 Vendor requirements for provision of electronic

169 monitoring services; vendor registration and certification  
170 process.--

171 (1) This section shall not apply to electronic monitoring  
172 provided directly by the state, a county, or a sheriff.

173 (2) The chief judge of each judicial circuit shall  
174 maintain a list of all eligible vendors of electronic monitoring  
175 in the circuit. To be an eligible vendor, a person must be a  
176 licensed bail bond agent in this state who has registered in  
177 accordance with this section as a vendor capable of providing  
178 electronic monitoring services in that judicial circuit. The  
179 chief judge shall place on such list of eligible vendors any  
180 licensed bail bond agent in this state who certifies in writing,  
181 as part of the vendor registration, that all electronic  
182 monitoring equipment and electronic monitoring services shall be  
183 operated and maintained in compliance with this section, and who  
184 agrees as part of such certification to comply with the terms of  
185 this section.

186 (3) Only a governmental entity or a licensed bail bond  
187 agent who is included on a list of eligible vendors under  
188 subsection (2) shall be permitted to undertake primary  
189 responsibility as a vendor of electronic monitoring services in  
190 a judicial circuit of this state.

191 (4) A licensed bail bond agent shall agree to abide by the  
192 following minimum terms as a condition of being included on the  
193 list of eligible vendors of electronic monitoring in a given  
194 judicial circuit of this state:

195 (a) The vendor shall register in writing the name of the  
196 vendor who shall be a licensed bail bond agent in this state,

197 the name of an individual employed by the vendor who is to serve  
 198 as a contact person for the vendor, the address of the vendor,  
 199 and the telephone number of the contact person.

200 (b) The vendor must initially certify as part of the  
 201 registration, and must certify in writing at least annually  
 202 thereafter on a date set by the chief judge, that all of the  
 203 electronic monitoring devices used by the vendor and any of the  
 204 vendor's subcontractors comply with the requirements for  
 205 privately owned electronic monitoring devices in s. 907.08.

206 (5) A vendor shall promptly notify the chief judge of any  
 207 changes in the vendor's registration information that is  
 208 required under this section.

209 (6) Failure to comply with the registration or  
 210 recertification requirements of this section shall be grounds  
 211 for removal from any chief judge's list of eligible vendors for  
 212 electronic monitoring.

213 (7) The chief judge, in his or her discretion, may also  
 214 remove any registered vendor from the list of eligible vendors  
 215 should the vendor:

216 (a) Fail to properly monitor any person that the vendor  
 217 was required to monitor.

218 (b) Charge a defendant a clearly excessive fee for use and  
 219 monitoring of electronic monitoring equipment. Such fees shall  
 220 be considered clearly excessive if the fees charged on a per  
 221 diem basis are at least two times greater than the average fee  
 222 charged by other vendors on the eligible vendor list who provide  
 223 comparable electronic monitoring equipment and services in that  
 224 judicial circuit.



225 Section 5. Section 907.08, Florida Statutes, is created to  
 226 read:

227 907.08 Standards for privately owned electronic monitoring  
 228 devices.--A privately owned electronic monitoring device  
 229 provided by a vendor must, at a minimum, meet the standards set  
 230 forth in this section to be used for electronic monitoring of a  
 231 person under s. 907.06 or s. 903.135. A device must:

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

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

235 (a) Emit signal content 24 hours per day, which signal  
 236 identifies the specific device being worn by the defendant and  
 237 the defendant's physical location using Global Positioning  
 238 Satellite (GPS) technology accurate to within 9 meters; or

239 (b) Receive signal content 24 hours per day, determining  
 240 the defendant's physical location using Global Positioning  
 241 Satellite (GPS) technology accurate to within 9 meters,  
 242 recording the defendant's physical locations throughout the day,  
 243 and capable of transmitting that record of locations to the  
 244 vendor at least daily.

245 (3) A unit affixed to the defendant must possess an  
 246 internal power source that provides a minimum of 1 year of  
 247 normal operation without need for recharging or replacing the  
 248 power source. The device must emit signal content that indicates  
 249 the power status of the transmitter and provides the vendor with  
 250 notification of whether the power source needs to be recharged  
 251 or replaced.

252 (4) Possess and emit signal content that indicates whether

253 the transmitter has been subjected to tampering or removal.

254 (5) Possess encrypted signal content or another feature  
 255 designed to discourage duplication.

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

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

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

265 (9) Use straps or other mechanisms for attaching the  
 266 transmitter to the defendant that are either capable of being  
 267 adjusted to fit a defendant of any size or made available in a  
 268 variety of sizes.

269 Section 6. Section 907.09, Florida Statutes, is created to  
 270 read:

271 907.09 Offenses related to electronic monitoring  
 272 devices.--

273 (1) It is illegal for any person to intentionally alter,  
 274 tamper with, damage, or destroy any electronic monitoring  
 275 equipment used for monitoring the location of a person pursuant  
 276 to court order, unless such person is the owner of the  
 277 equipment, or an agent of the owner performing ordinary  
 278 maintenance and repairs. A person who violates this subsection  
 279 commits a felony of the third degree, punishable as provided in  
 280 s. 775.082, s. 775.083, or s. 775.084.

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

288       Section 7. Subsection (3) is added to section 948.039,  
289 Florida Statutes, to read:

290       948.039 Special terms and conditions of probation or  
291 community control imposed by court order.--The court may  
292 determine any special terms and conditions of probation or  
293 community control. The terms and conditions should be reasonably  
294 related to the circumstances of the offense committed and  
295 appropriate for the offender. The court shall impose the special  
296 terms and conditions by oral pronouncement at sentencing and  
297 include the terms and conditions in the written sentencing  
298 order. Special terms and conditions may include, but are not  
299 limited to, requirements that the offender:

300       (3) Effective October 1, 2005, and applicable for violent  
301 felonies and sex-related offenses committed on or after that  
302 date, the court may order the posting of a probation bond  
303 pursuant to s. 903.135 to secure the appearance of the offender  
304 at any subsequent court proceeding. Such bond may include as a  
305 condition thereof that the offender be placed on an electronic  
306 monitoring device and subject to electronic monitoring services,  
307 in a like manner and under like conditions as in s. 907.06. The  
308 offender shall be ordered to pay the reasonable cost of the

309 electronic monitoring service.

310 Section 8. Subsection (6) is added to section 948.11,  
311 Florida Statutes, to read:

312 948.11 Electronic monitoring devices.--

313 (6) Any offender sentenced to community control or  
314 probation for a violent felony or sex-related offense, and  
315 required to submit to electronic monitoring pursuant to statute,  
316 court order, or the discretion of the Department of Corrections  
317 may be referred by the department to a vendor who has been  
318 selected through a competitive bidding process for the provision  
319 of electronic monitoring services, subject to the requirements  
320 of s. 907.07. Notwithstanding subsection (5) and s. 948.09(2),  
321 such offender shall be responsible for the cost of monitoring  
322 and shall pay the same directly to the vendor. A vendor shall  
323 report noncompliance to the assigned probation officer or  
324 community control officer pursuant to the procedures applicable  
325 to the Department of Corrections under subsection (3). If an  
326 offender fails to timely pay any cost related to electronic  
327 monitoring services to the vendor, the vendor may file an  
328 affidavit of nonpayment with the department and, upon receipt of  
329 the affidavit, the department shall proceed with a violation of  
330 the probation or community control.

331 Section 9. This act shall take effect October 1, 2005.