

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/SB 954

INTRODUCER: Criminal Justice Committee and Senator Simmons

SUBJECT: Electronic Monitoring Devices

DATE: February 11, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sumner</u>	<u>Cannon</u>	<u>CJ</u>	Fav/CS
2.	<u>Clodfelter</u>	<u>Sadberry</u>	<u>ACJ</u>	Recommend: Favorable
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 954 repeals s. 948.11(7), F.S., and moves its provisions into newly created s. 843.23, F.S., which makes it a third degree felony for a person to intentionally and without authority remove, destroy, alter, tamper with, damage, or circumvent the operation of an electronic monitoring device that must be worn or used by that person or another person pursuant to a court order or an order by the Florida Commission on Offender Review.

The bill also makes it a third degree felony for a person to request or solicit another person to remove, destroy, alter, tamper with, damage, or circumvent the operation of an electronic monitoring device.

Additionally, the bill clarifies s. 948.11(1), F.S., that the Department of Corrections (department) may electronically monitor offenders sentenced to community control only when the court has imposed electronic monitoring as a condition of community control.

The Criminal Justice Impact Conference met on October 28, 2015, and determined that SB 954, as filed, will have an insignificant prison bed impact on the department (an increase of ten or fewer beds). It does not appear that the changes made in CS/SB 954 would alter that determination.

The bill has an effective date of October 1, 2016.

II. Present Situation:

Section 948.11, F.S., provides that the department may, at its discretion, electronically monitor an offender sentenced to community control. Any offender who violates the terms of community control and is restored to community control may be supervised by an electronic monitoring device.

Electronic monitoring may also be a condition of a court or commission order for probationers, community controllees, or conditional releasees who have current or prior convictions for violent or sexual offenses. A system that actively monitors and identifies the offender’s locations and timely reports or records the offender’s presence near or within a crime scene or in a prohibited area or the offender’s departure from specified geographic limitations must be used.¹

The department may contract with local law enforcement agencies to assist in the location and apprehension of offenders who are in noncompliance as reported by the electronic monitoring system.² Any person who intentionally alters, tampers with, damages, or destroys any electronic monitoring equipment required pursuant to court or commission order, unless the person is the owner of the equipment or an agent of the owner performing ordinary maintenance and repairs, commits a third degree felony.³

According to the department’s December 2015 Monthly Status Report on the Community Supervision Population, there were 4,458 offenders on electronic monitoring.⁴

Offenders Tracked by Electronic Monitoring December 2015			
Supervision Type	Sex Offenders**	Others	Total
Community Control	164	965	1,129
Post Prison	215	149	364
Probation	2,352	613	2,965
Total Active Global Positioning	2,731	1,727	4,458
* Includes Active and Active-Suspense offenders.			
**Based on primary offense.			

III. Effect of Proposed Changes:

The bill repeals s. 948.11(7), F.S., and moves its provisions into newly created s. 843.23, F.S., which makes it a third degree felony for a person to knowingly, and without authority remove, destroy, alter, tamper with, damage, or circumvent the operation of an electronic monitoring device that must be worn or used by that person or another person pursuant to a court order or an order by the Florida Commission on Offender Review. The prohibitions against removing or circumventing the operation of the electronic monitoring device are not specified in the current statute.

¹ Section 948.11(6), F.S.

² Section 948.11(6), F.S.

³ Section 948.11(4), F.S.

⁴ <http://www.dc.state.fl.us/pub/spop/2015/12/tab02.html> (last visited January 19, 2016).

The bill also makes it a third degree felony for a person to request or solicit another person to remove, destroy, alter, tamper with, damage, or circumvent the operation of an electronic monitoring device.

The bill provides that “electronic monitoring device” as used in this section includes any device that is used to track the location of a person.

The bill amends s. 948.11(1), F.S., to clarify that the department may electronically monitor offenders sentenced to community control only when the court has imposed electronic monitoring as a condition of community control.

The bill has an effective date of October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference met on October 28, 2015, and determined that SB 954, as filed, will have an insignificant prison bed impact on the department (an increase of ten or fewer beds). It does not appear that the changes made in CS/SB 954 would alter that determination.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 843.23 of the Florida Statutes.

This bill amends section 948.11 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on January 25, 2016:

The Committee Substitute clarifies that any person who intentionally removes, destroys, alters, tampers with, damages or circumvents the operation of an electronic monitoring device can be prosecuted under the bill.

B. Amendments:

None.