

# FLORIDA HOUSE OF REPRESENTATIVES

## FINAL BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

<b>BILL #:</b> <a href="#">CS/CS/HB 437</a>	<b>COMPANION BILL:</b> <a href="#">SB 1054</a> (Garcia)
<b>TITLE:</b> Tampering with an Electronic Monitoring Device	<b>LINKED BILLS:</b> None
<b>SPONSOR(S):</b> Daley	<b>RELATED BILLS:</b> None
<b>FINAL HOUSE FLOOR ACTION:</b> 110 Y's 1 N's	<b>GOVERNOR'S ACTION:</b> Approved

### SUMMARY

#### Effect of the Bill:

The bill replaces the current third degree felony penalty with a graduated penalty scheme for the offense of tampering with an electronic monitoring device. Under the bill, the penalty that a court may impose upon a person who intentionally removes, destroys, or tampers with an electronic monitoring device depends on the level of offense for which the person is charged or currently serving a sentence, however it remains a third degree felony for a person under 18 years of age to commit the offense. The bill also requires a court to revoke the pretrial release of a person who commits an offense of tampering with an electronic monitoring device while he or she is on pretrial release but authorizes the court to set a new bond under specified circumstances.

#### Fiscal or Economic Impact:

The bill may have an indeterminate positive impact on the jail and prison bed population by:

- Creating graduated felony penalties related to tampering with an electronic monitoring device, which may result in increased jail and prison admissions and in offenders being sentenced to longer terms of incarceration; and
- Requiring a court to revoke the pretrial release of a person who commits an offense of tampering with an electronic monitoring device while he or she is on pretrial release, which may result in more offenders remaining in custody pending the resolution of criminal cases.

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## ANALYSIS

### EFFECT OF THE BILL:

The bill replaces the current third degree felony penalty with a graduated penalty scheme for the offense of [tampering with an electronic monitoring device](#). Under the bill, a person who intentionally and without authority removes, alters, destroys, tampers with, damages, or *affirmatively acts* to circumvent the operation of an electronic monitoring device, or requests, authorizes, or solicits another person to do so, commits a:

- Third degree felony, if the person who must wear or use the electronic monitoring device is charged with or serving a sentence for a misdemeanor or a third degree felony.
- Second degree felony, if the person who must wear or use the electronic monitoring device is charged with or serving a sentence for a second degree felony.
- First degree felony, if the person who must wear or use the electronic monitoring device is charged with or serving a sentence for a first degree felony, a first degree felony punishable by a term of years not exceeding life, a life felony, or a capital felony. (Section [1](#))

However, consistent with current law, a minor under 18 years of age who tampers with an electronic monitoring device commits a third degree felony, regardless of the level of the underlying offense. (Section [1](#))

Additionally, under the bill, a person who is on [pretrial release](#) and who tampers with an electronic monitoring device, or solicits another person to do so, must have his or her pretrial release revoked by the court. Thereafter, the court may set a new bond with conditions of release upon making a written finding that sufficient conditions of release exist to reasonably protect the community from risk of physical harm, ensure the presence of the accused at trial or at other proceedings, and assure the integrity of the judicial process. (Section [1](#))

**STORAGE NAME:** h0437z1

**DATE:** 6/11/2025

The bill was approved by the Governor on May 22, 2025, ch. 2025-78, L.O.F., and will become effective on October 1, 2025. (Section [2](#))

## FISCAL OR ECONOMIC IMPACT:

### STATE GOVERNMENT:

The bill may have an indeterminate positive impact on the prison bed population by replacing the current third degree felony with a graduated penalty scheme related to tampering with an electronic monitoring device, which may result in increased prison admissions and offenders being sentenced to longer terms of incarceration.

### LOCAL GOVERNMENT:

The bill may have an indeterminate positive impact on the jail bed population by requiring a court to terminate the pretrial release of a person who commits an offense of tampering with an electronic monitoring device while he or she is on pretrial release, which may result in more offenders remaining in custody pending the resolution of criminal cases.

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### Community Supervision

##### Pretrial Release

Section [907.041, F.S.](#), provides a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release, unless such person is charged with a dangerous crime as defined in [s. 907.041\(5\), F.S.](#) A person shall be released on monetary conditions if such conditions are necessary to:

- Assure the presence of the person at trial or at other proceedings;
- Protect the community from risk of physical harm to persons;
- Assure the presence of the accused at trial; or
- Assure the integrity of the judicial process.<sup>1</sup>

Additionally, [s. 903.047\(a\), F.S.](#), specifies that a defendant must refrain from criminal activity of any kind as a condition of pretrial release, regardless of whether such release is by surety bail bond, recognizance bond, or some other form. Under [s. 903.0471, F.S.](#), a court *may*, on its own motion, revoke pretrial release and order pretrial detention if it finds probable cause to believe that the defendant committed a new crime while on pretrial release or violated any other condition of pretrial release in a material respect.

#### *Probation, Community Control, and Conditional Release*

A court may sentence an offender to probation or community control in lieu of, or in addition to, incarceration.<sup>2</sup> Probation is a form of community supervision requiring specified contacts with a probation officer and other terms and conditions.<sup>3</sup> Community control is a more intensive form of supervision involving an individualized program that restricts an offender's movement within the community, home, or residential placement.<sup>4</sup> Several standard conditions of probation or community control apply automatically, including requirements to report to a probation officer as directed and to live without violating any law.<sup>5</sup> The court may also impose special conditions of probation or community control as it considers proper.<sup>6</sup> Following incarceration, offenders who qualify under Florida's "Conditional Release Program Act" may be released under supervision subject to specified terms and conditions determined by the Florida Commission on Offender Review (FCOR).<sup>7</sup>

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<sup>1</sup> [S. 907.041\(3\)\(a\), F.S.](#)

<sup>2</sup> [S. 948.01, F.S.](#)

<sup>3</sup> [S. 948.001\(8\), F.S.](#)

<sup>4</sup> [S. 948.001\(3\), F.S.](#)

<sup>5</sup> [S. 948.03\(1\), F.S.](#)

<sup>6</sup> [S. 948.03\(2\), F.S.](#)

<sup>7</sup> FCOR is authorized under s. 8(c), Art. IV of the State Constitution and responsible for granting and revoking parole and investigating applications for clemency as directed by the Governor and Cabinet. [S. 20.32, F.S.](#)

Generally, electronic monitoring devices are used to keep track of the location of arrestees, criminal defendants, and people who have been placed on probation, community control, or conditional release.<sup>8</sup>

### **Tampering with an Electronic Monitoring Device**

Under [s. 843.23, F.S.](#), a person commits a third degree felony<sup>9</sup> if he or she intentionally and without authority:

- Removes, destroys, alters, tampers with, damages, or circumvents 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 pursuant to an order by FCOR<sup>10</sup>; or
- Requests, authorizes, or solicits another person to remove, destroy, alter, tamper with, damage, or circumvent the operation of an electronic monitoring device required to be worn or used pursuant to a court order or pursuant to an order by FCOR.<sup>11</sup>

The term “electronic monitoring device” includes any device that is used to track the location of a person.<sup>12</sup>

### **Other Tampering Offenses**

#### *Tampering with a Witness, Victim, or Informant*

Under [s. 914.22, F.S.](#), a person commits the crime of tampering with a witness, victim, or informant if he or she knowingly uses intimidation or physical force, or threatens another person, or attempts to do so, or engages in misleading conduct toward another person, or offers pecuniary benefit or gain to another person, with intent to cause or induce any person to:

- Withhold testimony, or withhold a record, document, or other object, from an official investigation or official proceeding;
- Alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official investigation or official proceeding;
- Evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official investigation or an official proceeding;
- Be absent from an official proceeding to which such person has been summoned by legal process;
- Hinder, delay, or prevent the communication to a law enforcement officer or judge of information relating to the commission or possible commission of an offense or a violation of a condition of probation, parole, or release pending a judicial proceeding; or
- Testify untruthfully in an official investigation or an official proceeding.

Tampering with a witness, victim, or informant has a graduated penalty scheme so that a violation is a:

- Third degree felony, where the official investigation or official proceeding affected involves the investigation or prosecution of a misdemeanor.<sup>13</sup>
- Second degree felony,<sup>14</sup> where the official investigation or official proceeding affected involves the investigation or prosecution of a third degree felony.
- First degree felony,<sup>15</sup> where the official investigation or official proceeding affected involves the investigation or prosecution of a second degree felony.
- First degree felony, where the official investigation or official proceeding affected involves the investigation or prosecution of a first degree felony or a first degree felony punishable by a term of years not exceeding life.

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<sup>8</sup> Ss. [947.1405](#), [948.11](#), and [948.301, F.S.](#)

<sup>9</sup> A third degree felony is punishable by up to five years in prison and a \$5,000 fine. [Ss. 775.082](#), [775.083](#), or [775.084, F.S.](#)

<sup>10</sup> [S. 843.23\(2\)\(a\), F.S.](#)

<sup>11</sup> [S. 843.23\(2\)\(b\), F.S.](#)

<sup>12</sup> [S. 843.23\(1\), F.S.](#) Under [s. 948.11, F.S.](#), the Department of Corrections is in charge of electronically monitoring an offender sentenced to community control after a court imposes electronic monitoring as a condition of community control. The offender is responsible for paying the cost of such electronic monitoring and supervision. [S. 948.09, F.S.](#)

<sup>13</sup> A second degree misdemeanor is punishable by up to 60 days in county jail and a \$500 fine. [Ss. 775.082](#) and [775.083, F.S.](#) A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. [Ss. 775.082](#) and [775.083, F.S.](#)

<sup>14</sup> A second degree felony is punishable by up to 15 years in prison and a \$10,000 fine. [Ss. 775.082](#), [775.083](#), or [775.084, F.S.](#)

<sup>15</sup> A first degree felony is punishable by up to 30 years in prison and a \$10,000 fine. [Ss. 775.082](#), [775.083](#), or [775.084, F.S.](#)

- Life felony, where the official investigation or official proceeding affected involves the investigation or prosecution of a life or capital felony.
- Third degree, where the offense level of the affected official investigation or official proceeding is indeterminable or where the affected official investigation or official proceeding involves a noncriminal investigation or proceeding.

#### *Tampering with a Juror*

Under [s. 918.12, F.S.](#), a person commits a third degree felony if he or she influences the judgment or decision of any grand or petit juror on any matter, question, cause, or proceeding which may be pending, or which may by law be brought, before him or her as such juror, with intent to obstruct the administration of justice.

#### *Tampering with Physical Evidence*

Under [s. 918.13, F.S.](#), it is unlawful for any person, knowing that a criminal trial, proceeding, or investigation by a duly constituted prosecuting authority, law enforcement agency, grand jury, or legislative committee of this state is pending or is about to be instituted, to:

- Alter, destroy, conceal, or remove any record, document, or other item with the purpose to impair its verity or availability in such proceeding or investigation; or
- Make, present, or use any record, document, or other item, knowing it to be false.

Generally, tampering with physical evidence is punishable as a third degree felony.<sup>16</sup> However, a person commits a second degree felony if he or she tampers with physical evidence relating to a criminal trial, proceeding, or investigation that relates to a capital felony.<sup>17</sup>

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<sup>16</sup> [S. 918.13\(2\)\(a\), F.S.](#)

<sup>17</sup> [S. 918.13\(2\)\(b\), F.S.](#)