

HOUSE BILL ANALYSIS

HB 1124

Title: An act relating to correcting electronic monitoring provisions in the penalty schedule for alcohol violators.

Brief Description: Correcting DUI penalty provisions.

Sponsors: Representatives Constantine, Sheahan, Ballasiotes, Lantz, McDonald, Lambert, Stensen, Hurst and Esser.

Brief Summary of Bill

- Allows the court to provide equivalent alternatives to mandatory electronic monitoring when sentencing DUI offenders.
- Provides grounds for giving such an alternative sentence including lack of necessary facilities, residence outside the state, and belief that the offender would violate the conditions of electronic monitoring.

HOUSE COMMITTEE ON JUDICIARY

Staff: Bill Perry (786-7123).

Background:

As part of extensive amendments to the state's drunk driving laws in 1998, the Legislature greatly expanded the use of electronic home monitoring in DUI sentences. All DUI offenders are now explicitly subject to electronic monitoring. Electronic home monitoring may include an alcohol detection breathalyzer test to which the offender is periodically required to submit. The monitoring must be paid for by the offender. In some instances the monitoring is mandatory.

For first-time offenders, electronic monitoring may be given in lieu of what is otherwise mandatory jail time. This means that for first-time offenders, either a prescribed minimum jail sentence or a prescribed minimum monitoring sentence must be given. For a first-time offender with an alcohol concentration (BAC) below 0.15 percent, not less than 15 days of electronic monitoring may be given in lieu of an otherwise mandatory one day in jail. In the case of a first-time offender with a BAC of 0.15 or more, not less than 30 days may be given in lieu of an otherwise mandatory two days in jail.

For repeat offenders, electronic monitoring must be given in addition to mandatory jail time. This means that for repeat offenders, a prescribed minimum sentence of both jail and monitoring must be given. For these repeat offenders, the prescribed minimum sentence ranges from 60 to 150 days, depending on the offenders' histories and BAC levels.

Electronic home monitoring is not considered "confinement." Under the Sentencing Reform Act (SRA), confinement includes "home detention . . . for a substantial portion of the day with the balance of the day spent in the community."

Some local jurisdictions have expressed concern that the requirements for mandatory electronic home detention may prove ineffective or impractical if, for instance, the offender lacks a dwelling or a phone line which are necessary for home monitoring. Some concern has also been expressed that exempting electronic home monitoring from the SRA definition of detention makes administration of the program difficult.

Summary of Bill:

Courts may waive otherwise mandatory electronic home monitoring in DUI cases if:

- The offender has no dwelling, phone, or other necessity for monitoring;
- The offender resides outside the state;
- There is reason to believe the offender will violate the terms of the monitoring.

Whenever a court waives the mandatory monitoring, it must give its reasons and must impose an alternative sentence with similar punitive consequences.

The statement that electronic monitoring is not "confinement" is removed.

Fiscal Note: Requested January 25, 1999.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Office of Program Research