

# SENATE BILL REPORT

## SHB 1124

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As Reported By Senate Committee On:  
Judiciary, March 1, 1999

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

**Brief Description:** Correcting DUI penalty provisions.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Constantine, Sheahan, Ballasiotes, Lantz, McDonald, Lambert, Stensen, Hurst and Esser).

**Brief History:**

**Committee Activity:** Judiciary: 2/26/99, 3/1/99 [DP].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Goings, Hargrove, Haugen, Johnson, Long, McCaslin, Roach, Thibaudeau and Zarelli.

**Staff:** Lidia Mori (786-7755)

**Background:** As part of extensive amendments to the state's driving under the influence of liquor (DUI) laws in 1998, the Legislature greatly expanded the use of electronic home monitoring in DUI sentences. All DUI offenders are now 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.

For first-time offenders, electronic monitoring may be ordered in lieu of mandatory jail time. The court may order not less than 15 days of electronic monitoring in lieu of the otherwise mandatory one day in jail for first time offenders with an alcohol concentration (BAC) below .15. A first-time offender with a BAC of .15 or more may receive not less than 30 days of electronic monitoring in lieu of the otherwise mandatory two days in jail.

For repeat offenders, electronic monitoring must be ordered in addition to mandatory jail time. For repeat offenders, the prescribed minimum sentence ranges from 60 to 150 days, depending on the offenders' histories and BAC levels.

Some local jurisdictions have expressed concern that the requirements for mandatory electronic home monitoring may prove ineffective or impractical if 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 Sentencing Reform Act (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 impose an alternative sentence with similar punitive consequences such as more jail time, work crew, or work camp.

If the total of jail time and electronic monitoring (or an alternative to monitoring) exceeds one year, the jail time is to be served first and the monitoring (or alternative) is reduced so that the combination does not exceed one year.

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

**Appropriation:** None.

**Fiscal Note:** Available

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

**Testimony For:** Law enforcement as well as prosecutors have realized that electronic home monitoring will not work in certain situations, such as when the offender does not have a residence or a telephone. This bill allows the court to waive the required monitoring and impose an alternative sentence in those types of situations.

**Testimony Against:** None.

**Testified:** Tim Schellberg, WA Assn. of Sheriffs and Police Chiefs (pro).