

# SENATE BILL REPORT

## SB 5166

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As Reported By Senate Committee On:  
Human Services & Corrections, February 24, 2005

**Title:** An act relating to studying electronic monitoring as an alternative to incarceration.

**Brief Description:** Ordering a study of electronic monitoring systems.

**Sponsors:** Senators Hargrove, Stevens, Kline, Hewitt, Regala, Zarelli, Brandland, Roach, Carrell, McCaslin and Shin.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/25/05, 2/24/05 [DPS].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 5166 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Brandland, Carrell, McAuliffe and Thibaudeau.

**Staff:** Kiki Keizer (786-7430)

**Background:** Electronic monitoring is currently used by the state's Department of Corrections (DOC) to monitor the whereabouts of certain offenders during community placement, community custody, and post-release supervision. The Department of Corrections also employs electronic monitoring, at times, if an offender is released into the community for extraordinary medical reasons.

Various local law enforcement agencies in Washington have used electronic monitoring in misdemeanor cases and some felony cases. In those cases, judges may sentence offenders to home detention subject to electronic monitoring in lieu of jail time.

Besides its application in the sentencing context and post-incarceration, electronic monitoring has been used pretrial. For example, in addition to radio frequency (ankle bracelet) monitoring, at least one jurisdiction in the state employs a pretrial breath alcohol testing program, affecting persons who register a breath alcohol content of 0.15 or greater or who refuse to submit to a breath test at a traffic stop. In order to stay out of jail before trial, those persons agree to submit breath tests on a camera connected through the telephone line, twice a day, so that a human monitor may confirm the identity of the person taking the breath test and make a note of the results of the tests. Instead of going to jail or raising funds to make bail, offenders are charged a fee of approximately \$6.00 per day to rent the equipment for the on-camera breath testing. The program has been helpful in determining whether certain offenders need alcohol treatment and has reportedly kept offenders from driving during the period that their license is still in effect after their initial citation for driving while under the influence of alcohol.

**Summary of Substitute Bill:** The bill requires the Washington Association of Sheriffs and Police Chiefs (WASPC) to do a comprehensive review and analysis of the use of electronic monitoring in other states. WASPC would be required to report any findings and recommendations to the legislature by the end of 2005.

In addition, the DOC must work with the WASPC to establish an electronic monitoring program for low-risk offenders who violate terms of their community custody. Between January 1, 2006 and December 31, 2006, the DOC must endeavor to place at least 100 low-risk community custody violators on the electronic monitoring program per day if there are at least that many low-risk offenders who qualify for the program. A civil immunity provision protects the DOC, the WASPC, local governments, and their employees from liability unless an employee acts with gross negligence or in bad faith.

**Substitute Bill Compared to Original Bill:** The DOC must work with the WASPC to establish an electronic monitoring program for low-risk offenders who violate terms of their community custody. Between January 1, 2006 and December 31, 2006, the DOC must endeavor to place at least 100 low-risk community custody violators on the electronic monitoring program per day if there are at least that many low-risk offenders who qualify for the program. A civil immunity provision is added to protect the DOC, the WASPC, local governments, and their employees from liability unless an employee acts with gross negligence or in bad faith.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For:** Electronic monitoring is becoming more widely accepted as a way of tracking low-risk offenders. Electronic monitoring saves money because passive monitoring is significantly cheaper than paying for jail bed space. In some cases, offenders pay for electronic monitoring, themselves. Electronic monitoring also prevents jails from overcrowding.

The study would include analysis of new technologies and how other states have handled the possibility of lawsuits arising from incidents occurring while offenders are being monitored.

**Testimony Against:** None.

**Who Testified:** PRO: Tim Schellberg, WASPC; Steve Whybark, Mason County Sheriff.