

HOUSE BILL REPORT

ESHB 2543

As Passed House:
February 13, 2014

Title: An act relating to electronic monitoring.

Brief Description: Establishing a work group on electronic home monitoring.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Shea, Overstreet, Taylor and Short).

Brief History:

Committee Activity:

Public Safety: 1/29/14, 2/5/14 [DPS].

Floor Activity:

Passed House: 2/13/14, 97-0.

Brief Summary of Engrossed Substitute Bill

- Establishes a work group on electronic home monitoring (EHM) to study and make recommendations relating to establishing statewide standards for EHM.
- Defines electronic surveillance as part of a home detention program to be monitoring an offender's location through either signaling or satellite monitoring.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

Staff: Sarah Koster (786-7303).

Background:

An offender may be sentenced by a court, as an alternative to incarceration, to home detention, in which the offender resides in the community, subject to electronic surveillance.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Alternatively, an offender may be ordered by the Department of Corrections (DOC) to home detention, as part of the DOC's parenting program.

Eligible Offenders. Offenders convicted of certain crimes are ineligible for home detention, unless they are participating in the DOC's parenting program: a violent offense, a sex offense, a drug offense, Reckless Burning in the first or second degree, Assault in the third degree, Assault of a Child in the third degree, Unlawful Imprisonment, or Harassment.

Offenders convicted of Burglary, Possession of a Controlled Substance, Forged Prescription of a Controlled Substance, or taking a Motor Vehicle are eligible for home detention if they meet certain criteria.

Conditions of Home Detention. Participation in a home detention program is conditioned upon the offender: (1) obtaining and maintaining employment; attending a course of study at regular hours or performing parental duties to children normally in his or her custody; (2) abiding by the rules of the home detention program; and (3) compliance with court-ordered legal financial obligations.

Summary of Engrossed Substitute Bill:

An offender on home detention must be subject to electronic surveillance that determines the monitored individual's presence at an approved location through either: (1) Signaling, which continuously detects whether the monitored individual is at the approved location and notifies the monitoring agency of the time that the monitored individual leaves the approved location, tampers with, or removes the monitoring device; or (2) Satellite monitoring, which continuously detects the location of the monitored individual and notifies a home detention monitor of the monitored individual's location at all times.

A work group on electronic home monitoring (EHM) is established to study and make recommendations relating to establishing statewide standards for EHM in Washington.

The work group shall consist of the following members, with a chair or chairs chosen from amongst the legislative members:

- one member from each of the two largest caucuses of the Senate, appointed by the president of the Senate;
- one member from each of the two largest caucuses of the House of Representatives, appointed by the Speaker of the House of Representatives;
- the Chief of the Washington State Patrol or the chief's designee;
- the Secretary of the Department of Corrections or the secretary's designee;
- the Executive Director of the Washington Association of Sheriffs and Police Chiefs or the executive director's designee;
- one member representing the Superior Court Judges' Association;
- one member representing the District and Municipal Court Judges' Association;
- one member representing the Washington State Association of Counties;
- one member representing the Washington Association of Prosecuting Attorneys;
- one member representing the Washington Defender's Association or the Washington Association of Criminal Defense Lawyers;
- one member representing the Washington Coalition of Crime Victim Advocates; and

- at least two members, appointed by the Governor, who represent agencies engaged in the electronic monitoring of offenders in Washington.

At a minimum, the work group shall research, review, and make recommendations on:

1. imposing reporting standards on public and private agencies which monitor individuals through EHM to govern how quickly and frequently courts, prosecutors, and law enforcements should be notified of violations;
2. imposing monitoring standards to govern how often and by which methods agencies must verify monitored individual's activities;
3. imposing operational requirements on agencies to ensure continued EHM around the clock, including staffing and equipment requirements, contingency plans, and bonding and insurance requirements;
4. ensuring professional requirements, such as background checks and prohibitions on private relationships between agencies or agency employees and EHM individuals;
5. ensuring compliance with any standards imposed, by methods such as auditing requirements or other oversight, and penalties; and
6. improving accountability for individuals on supervision and consistency, as appropriate, of the terms of EHM for similar monitored individuals.

The work group will compile its findings and recommendations for EHM into a final report and provide its report to the appropriate committees of the Legislature and Governor by December 1, 2014.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill came from a whistleblower who revealed that the bad guys can choose which agency to use and, in the worst case scenario, which ones will look the other way if paid a little bit of money. In other scenarios, these EHM companies will not even notify that these alerts are going off. In March 2012 a sex offender on GPS (global positioning system) monitor, killed a 13-year-old in the State of Washington. There needs to be reform: clarify standards, uniform standards for companies, and standardize reporting. The public is not as safe as it thinks. There are core functions of government that need to be done to keep our citizens safe. Whatcom County detective, Paul Murphy, exposed some concerns about the EHM program there; his concerns were verified, reports were never made. This is not a theoretical problem; people have died in Washington because of the failures in EHM.

Buying time off the clock undermines the criminal justice system. To have prosperity and opportunity for all citizens, we must maintain the credibility of the criminal justice system and this system is not watching criminals as we think they are. This bill makes EHM agencies accountable. The cost to society of not doing this outweighs the fiscal note concerns.

(Opposed) This bill does not go far enough, it was rushed. More experts need to weigh in and get a bill that addresses needs statewide. This bill would only apply to felons, but 98 percent of people sentenced to EHM are misdemeanants. Twelve hours a week gives too much room for agencies to negotiate and lure offenders with free time, without accountability. The bill is not clear enough for agencies. The bill is heading in the right direction, but it needs some work. The definitions are problematic in terms of the reality of EHM and how that is a collaboration between law enforcement, courts, and private enterprises. The bill will not do what the prime sponsor wants, but there is a need for regulation.

Persons Testifying: (In support) Representative Shea, prime sponsor; and Glen Morgan and Scott Roberts, Freedom Foundation.

(Opposed) Steven Hopkins, Stay Home Monitoring, Incorporated; Tobin Fisher, Scram Systems; and Don Pierce, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.