

SENATE BILL REPORT

SB 5766

As Reported by Senate Committee On:
Law & Justice, February 18, 2015

Title: An act relating to performance requirements and measures for monitoring agencies providing home detention programs utilizing electronic monitoring.

Brief Description: Establishing performance requirements and measures for monitoring agencies providing home detention programs utilizing electronic monitoring. [**Revised for 1st Substitute:** Concerning monitoring agencies providing electronic monitoring.]

Sponsors: Senators Roach, O'Ban, Padden and Darneille.

Brief History:

Committee Activity: Law & Justice: 2/12/15, 2/18/15 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5766 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Darneille, Kohl-Welles, Pearson and Roach.

Staff: Tim Ford (786-7423)

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. 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 the following crimes are ineligible for home detention, unless they are participating in 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.

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.

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 the offender's custody; (2) abiding by the rules of the home detention program; and (3) compliance with court-ordered legal financial obligations.

Summary of Bill (Recommended Substitute): Monitoring agencies are public or private entities, including a sheriff's office and a police department, which supervise a monitored offender pursuant to a home detention program.

Electronic monitoring means an alternative to incarceration by confinement to a private residence 24 hours per day except where authorized by the supervising agency. Supervising agency means a public entity that authorized or imposed electronic monitoring. A supervising agency must establish terms and conditions for a monitoring agency to follow when monitoring an offender, and notifying the supervising agency.

A private monitoring agency's operational requirements are the following:

- hold general liability insurance in an amount not less than \$100,000;
- obtain a surety bond in the amount of \$10,000 – running to the state of Washington for the benefit of a person injured by the wrongful act of the monitoring agency;
- have detailed contingency plans for operations in the case of power outage, financial insolvency, and disasters;
- prohibit private or business relationships between monitored individual and the monitoring agency or agency's employees;
- not employ anyone convicted of a felony offense within the past four years; and
- obtain a background check through the Washington State Patrol for every partner, director, officer, owner, or operator of the monitoring agency, at the agency's expense;

An agency which fails to comply with any of these requirements may be subject to a civil penalty, as determined by a court, of up to \$1,000 per violation.

All contracts with private electronic monitoring agencies may, as deemed necessary, be in writing and may provide for contractual penalties in addition to those provided by law.

Offenders with a prior conviction of a violent offense, sex offense, or escape are ineligible for electronic monitoring, and offenders may not be released to electronic monitoring unless secured by bail.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute):

- Defines electronic monitoring to mean an alternative to incarceration by confinement to a private residence 24 hours per day except where authorized by the supervising agency;
- Defines supervising agency to mean a public entity that authorized or imposed electronic monitoring;

- Removes reporting requirements and requires a supervising agency to establish terms and conditions for a monitoring agency to follow when monitoring an offender, and notifying the supervising agency;
- Requires a private monitoring agency to carry insurance and a bond, and prohibits business relationships between the private monitoring agency and the offender;
- Offenders with a prior conviction of a violent offense, sex offense, or escape are ineligible for electronic monitoring; and
- Offenders may not be released to electronic monitoring unless secured by bail.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: It is a privilege to be electronically monitored at home. The alternative is to be incarcerated. The assumption is that the individual is in fact being monitored. Certain private companies are not meeting the standard of monitoring and reporting that is expected. For the bond requirement, public monitoring agencies should be exempt. The language for the reporting requirement is too restrictive, courts want a shorter period than a week for reporting violations. There should be a uniform approach statewide. Some counties use private monitoring agencies, some use public monitoring agencies. Judges need to be more specific in the court orders for monitoring. Notifying law enforcement doesn't really help because the court must be notified to issue a warrant. Not all private monitoring companies have contracts.

OTHER: The reference should be to electronic monitoring not home monitoring. The reporting should be to the supervising agency and not law enforcement. The conditions in section 2 should be for private companies.

Persons Testifying: PRO: Senator Roach, prime sponsor; Brett Buckley, Judge; Scott Roberts, Evergreen Freedom Foundation; Barbara Miller, Friendship Diversion Services; Fidelis Leasiolagi, 2 Watch Monitoring; Glen Morgan, citizen.

OTHER: James McMahan, WA Assn. of Sheriffs & Police Chiefs.