

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 1286

INTRODUCER: Criminal Justice Committee and Senator Simmons

SUBJECT: Electronic Monitoring Devices

DATE: March 10, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	Fav/CS
2.			ACJ	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1286 creates s. 843.23, F.S., which makes it a third degree felony for a person, to knowingly and without authority remove, destroy, or circumvent the operation of an electronic monitoring device. The device must be used for the purpose of monitoring a person who is complying with a home arrest program, wearing one as a condition of bond or pretrial release, or as a result of a court order for a protective injunction issued for domestic violence, repeat violence, sexual violence, dating violence, a stalking injunction, or on county probation. The bill also makes it a third degree felony to request or solicit a person to remove, destroy, or circumvent the operation of an electronic device. The bill defines electronic monitoring device as any device that is used to track the location of a person.

II. Present Situation:

Electronic Monitoring Devices

Section 948.11, F.S., provides that the Department of Corrections (department) may, at its discretion, electronically monitor an offender sentenced to community control. Any offender who violates the terms of community control and is restored to community control may be supervised by an electronic monitoring device.

Electronic monitoring may also be a condition of a court or commission order for probationers, community controllees, or conditional releasees who have current or prior convictions for violent

or sexual offenses. A system that actively monitors and identifies the offender's locations and timely reports or records the offender's presence near or within a crime scene or in a prohibited area or the offender's departure from specified geographic limitations must be used.¹

The department may contract with local law enforcement agencies to assist in the location and apprehension of offenders who are in noncompliance as reported by the electronic monitoring system.² Any person who intentionally alters, tampers with, damages, or destroys any electronic monitoring equipment pursuant to court or commission order, unless the person is the owner of the equipment or an agent of the owner performing ordinary maintenance and repairs, commits a third degree felony.³

Types of Department of Corrections' Supervision Using Electronic Monitoring Devices

Community Control

Community Control is a form of intensive supervised "house arrest" including weekends and holidays. Offenders are restricted to his or her residence with the exception of being allowed to work, attend treatment, visit the probation office, and limited other occasions that must be approved in advance by the Community Control Officer. Violations of community control may result in revocation by the court and imposition of any sentence it may have imposed before being placed on community control supervision.

Post Prison Release

Post prison release includes parole, conditional release, and addiction recovery. Parole is a type of supervision program where inmates have terms and conditions set by the Florida Commission on Offender Review. The period of parole cannot exceed the balance of the offender's original sentence. Parole supervision is provided by Correctional Probation Officers. Only offender's sentences for offenses committed prior to October 1, 1983, are eligible for parole.

Conditional Release is for inmates sentenced to murder/manslaughter, sexual offenses, robbery or other violent personal crimes and who have previous commitment to a state or federal institution or have been convicted as a Habitual Offender or Sexual Predator.

Addiction Recovery is a form of supervision for an offender released from a state correctional facility, convicted of a crime committed on or after July 1, 2001, when the offender has a history of substance abuse or addiction, participated in any drug treatment, no current or previous convictions for a violent offense, or current or previous convictions for drug trafficking, unlawful sale of a controlled substance, or property offense. The Florida Commission on Offender Review imposes the conditions of supervision on offenders released to Addiction Recovery Supervision. Supervision is provided by the department's Probation Officers. Violations of supervision are reported by Probation Officers to the Florida Commission on Offender Review to make a final determination whether to continue the supervision, modify, or revoke the conditions.

¹ Section 948.11(6), F.S.

² Section 948.11(4), F.S.

³ Section 948.11 (7), F.S.

Probation

Probation is a court-ordered term of community supervision under specified conditions for a specified period of time that cannot exceed the maximum sentence for the offense. It is the most common type of supervision. Failure to comply with any special conditions of supervision may result in a modification of the sentence or revocation by the court and an imposition of any sentence that it might have imposed when it originally placed the offender on probation.

Sex Offender Probation

Sex Offender Probation is an intensive form of supervision which emphasizes sex offender treatment and close monitoring in the field to ensure compliance with sex offender conditions of supervision and sex offender registration requirements.

Types of Electronic Monitoring Used by the Department

Global Positioning System (GPS) is an electronic monitoring system with cellular communication capability that works through the use of an ankle bracelet attached to the offender. It provides real time tracking of offender locations and reporting of offender alarm notifications through e-mail, fax pages, or text message.

Radio Frequency Monitoring (RF) utilizes a bracelet attached to the offender that is electronically tethered to a receiver with phone communication capability. RF provides offender monitoring during the hours of home confinement, and only monitors the offender’s presence or absence from the home.

According the department’s February 2015 Monthly Status Report on the Community Supervision Population, there were 4,119 offenders on electronic monitoring.⁴

Offenders Tracked by Electronic Monitoring February 2015			
Supervision Type	Sex Offenders**	Others	Total
Community Control	177	844	1,021
Post Prison	234	147	381
Probation	2,135	582	2,717
Total Active Global Positioning	2,546	1,573	4,119
* Includes Active and Active-Suspense offenders.			
**Based on primary offense.			

Electronic Monitoring Used by Local Criminal Justice Entities

Local criminal justice entities employ electronic monitoring for a variety of purposes such as tracking high-risk defendants out on bail or in domestic violence cases when a defendant’s release could pose a threat to the victim.

⁴⁴ <http://www.dc.state.fl.us/pub/spop/2015/01/index.html> (last visited March 6, 2015).

III. Effect of Proposed Changes:

The bill creates s. 843.23, F.S., which makes it a third degree felony for a person, to knowingly and without authority remove, destroy, or circumvent the operation of an electronic monitoring device. The device must be used for the purpose of monitoring a person who is complying with a home arrest program, wearing one as a condition of bond or pretrial release, or as a result of a court order for a protective injunction issued for domestic violence, repeat violence, sexual violence, dating violence, a stalking injunction, or on county probation. The bill also makes it a third degree felony to request or solicit a person to remove, destroy, or circumvent the operation of an electronic device. The bill defines electronic monitoring device as any device that is used to track the location of a person.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Estimating Conference gave a preliminary estimate of positive insignificant impact because the bill is an expansion of s. 948.11, F.S., by the addition of “solicitation of another” to commit the offense. There were 14 offenders in FY 13-14 with six offenders receiving prison sentences for tampering with an electronic device.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 843.23 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 10, 2015:

The Committee Substitute includes persons on county probation to the list of persons who are prohibited from knowingly and without authority removing, destroying, or circumventing the operation of an electronic monitoring device.

- B. **Amendments:**

None.